1–10–02 Thursday
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Contents

Federal Register

Vol. 67, No. 7

Thursday, January 10, 2002

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 67, No. 7
Thursday, January 10, 2002

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV01–987–1 FR]

Domestic Dates Produced or Packed in Riverside County, California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the California Date Administrative Committee (Committee) for the 2001–02 and subsequent crops years from $0.10 to $0.25 per hundredweight of dates handled. The Committee locally administers the marketing order that regulates the handling of dates produced or packed in Riverside County, California. Authorization to assess date handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: January 11, 2002.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey St., suite 102B, Fresno, CA 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dates beginning on October 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2001–02 and subsequent crop years from $0.10 per hundredweight to $0.25 per hundredweight of assessable dates handled.

The California date marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and producer-handlers of California dates. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–99 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by the USDA upon recommendation and information submitted by the Committee or other information available to the USDA.

The Committee met on August 16, 2001, and unanimously recommended 2001–02 expenditures of $90,800 and an assessment rate of $0.25 per hundredweight of dates handled. In comparison, last year's budgeted expenditures were $116,800. The recommended assessment rate of $0.25 is $0.15 higher than the rate currently in effect. The higher assessment rate is needed to offset a reduction in the Committee's reserve funds and a reduction in surplus funds available to the Committee from the sale of cull dates. Proceeds from the sales of cull dates are deposited into the surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets.

Last year, the Committee applied $15,000 of surplus account monies to cover surplus pool expenses. Based on

a recent trend of declining sales of cull dates over the past few years, the Committee expects the surplus pool share of expenses during 2001–02 to be $5,000, or $10,000 less than expected during 2000–01. Hence, the revenue available from the surplus pool to cover Committee expenses during 2001–02 is expected to be less than last year. To offset this reduction in income, the Committee recommended increasing the assessment rate, using $20,550 from its administrative reserves, and $250 in interest income to fund the 2001–02 budget.

The major expenditures recommended by the Committee for the 2001–02 year include $54,700 in salaries and benefits, $3,900 in office administration, $30,200 in office expenses, and $2,000 for contingencies. Budgeted expenses for these items in 2000–01 were $54,100 in salaries and benefits, $18,000 in office administration, $39,700 in office expenses, and $5,000 for contingencies.

The assessment rate recommended by the Committee was derived from applying the following formula where:

A = 2001–02 surplus account ($5,000);
B = amount taken from administrative reserves ($20,550);
C = 2001–02 interest income ($250);
D = 2001–02 expenses ($90,800);
E = 2001–02 expected shipments (260,000 hundredweight);
(D − (A + B + C) ÷ E = $0.25 per hundredweight.

Estimated shipments should provide $65,000 in assessment income. Income derived from handler assessments, the surplus account (which contains money from cull date sales), and the administrative reserves should be adequate to cover budgeted expenses. Funds in the reserve are expected to total about $20,800 by September 30, 2001, and therefore will be less than the maximum permitted by the order (not to exceed 50% of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c)).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 producers of dates in the production area and approximately 10 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts are less than $5,000,000. Five of the 10 handlers (50%) shipped over $5,000,000 of dates and could be considered large handlers by the Small Business Administration. Five of the 10 handlers shipped under $5,000,000 of dates and could be considered small handlers. The majority of California date producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent crop years from $0.10 per hundredweight to $0.25 per hundredweight of assessable dates handled. The Committee unanimously recommended 2001–02 expenditures of $90,800 and an assessment rate of $0.25 per hundredweight. The assessment rate of $0.25 is $0.15 higher than the rate currently in effect. The quantity of assessable dates for the 2001–02 crop year is estimated at 260,000 hundredweight. Thus, the $0.25 per hundredweight rate should provide $65,000 in assessment income and, in conjunction with other funds available to the Committee, be adequate to meet this year's expenses. Funds available to the Committee include income derived from assessments, the surplus account (which contains money from cull date sales), and the administrative reserves.

The higher assessment rate is needed to offset a reduction in the Committee's reserve funds and an expected reduction in surplus funds available to the Committee from the sale of cull dates. Proceeds from the sales of cull dates are deposited into the surplus account for subsequent use by the Committee. Last year the Committee applied $15,000 of surplus account monies to cover surplus pool expenses. Based on a recent trend of declining sales of cull dates over the past few years, this year the Committee expects to apply $5,000 to the budget from the sale of cull dates.

The major expenditures recommended by the Committee for the 2001–02 year include $54,700 in salaries and benefits, $3,900 in office administration, $30,200 in office expenses, and $2,000 for contingencies. Budgeted expenses for these items in 2000–01 were $54,100 in salaries and benefits, $18,000 in office administration, $39,700 in office expenses, and $5,000 for contingencies.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $90,800 which included increases in salaries and benefits and administrative expenses. Prior to arriving at this budget, the Committee considered alternative expenditure levels, including a proposal to not fund a compliance officer position, but determined that expenditures for the position were necessary to promote compliance with program requirements. The assessment rate of $0.25 per hundredweight of assessable dates was then determined by applying the following formula where:

A = 2001–02 surplus account ($5,000);
B = amount taken from administrative reserves ($20,550);
C = 2001–02 interest income ($250);
D = 2001–02 expenses ($90,800);
E = 2001–02 expected shipments (260,000 hundredweight);
(D − (A + B + C)) ÷ E = $0.25 per hundredweight.

Estimated shipments should provide $65,000 in assessment income.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2001–02 season could range between $30 and $75 per hundredweight of dates. Therefore, the

estimated assessment revenue for the 2001–02 crop year as a percentage of total grower revenue will be less than one percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 16, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on October 15, 2001 (66 FR 52363). Copies of the proposed rule were also mailed or sent via facsimile to all date handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending November 14, 2001, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving 2001–02 crop commodity from growers, the fiscal period began October 1, and the rate applies to all dates received during the 2001–02 and subsequent seasons. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2001, an assessment rate of $0.25 per hundredweight is established for California dates.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–580 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 381 and 441

[Docket No. 01–046N]

RIN 0583–AC87

Retained Water in Raw Meat and Poultry Products: Suspension of Regulation

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final Rule; Suspension of regulation.

SUMMARY: The Food Safety and Inspection Service (FSIS) is suspending until January 9, 2003, regulations that limit water retained by raw meat and poultry products from post-evisceration processing to the amount that is unavoidable in meeting applicable food safety requirements and that require labeling for the amount of water retained. The original effective date of these final regulations was January 9, 2002. FSIS is taking this action in response to a petition from four trade associations representing the meat and poultry industries. The petitioners requested the effective date be extended until August, 2004. However, FSIS has decided that a one-year suspension of the regulation will allow the meat and poultry industry sufficient time to complete necessary experimentation, including microbial testing and chilling system trials under FSIS-accepted data collection protocols; to fine-tune and stabilize newly adjusted processes; and to conduct regular measurements of retained water at packaging. Suspension of the regulation also will provide members of the meat and poultry industry sufficient time to order new supplies of labels with statements reflecting the amount of retained water in their raw products.

The final rule promulgating the retained water regulations also made numerous technical amendments in the sections of the poultry products inspection regulations that concern poultry chilling practices. The effective date of these amendments will remain January 9, 2002.

DATES: The effective date of the amendments of 9 CFR 381.65 and 381.66 published January 9, 2001 (66 FR 1750), as corrected by the **Federal Register** notice published April 17, 2001, at 66 FR 19713–19714, is and remains January 9, 2002. 9 CFR part 441 is suspended from January 9, 2002, until January 9, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, OPPDE, FSIS, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–3219.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 2001, FSIS published a final rule in the **Federal Register** (66 FR 1750) that, among other things, promulgated regulations limiting the amount of water that could be retained by raw, single-ingredient, meat and poultry products as a result of post-evisceration processing, such as carcass washing and chilling. Under these regulations (codified at 9 CFR 441.10), raw livestock and poultry carcasses and parts will not be permitted to retain water resulting from post-evisceration processing unless the establishment preparing those carcasses and parts demonstrates to FSIS, with data collected under a written protocol, that any water retained in the carcasses and parts is an inevitable consequence of the

process used to meet applicable food safety requirements. The labels of products covered by the rule must bear statements indicating the maximum percentage of retained water in the products. On June 29, 2001, FSIS issued instructions to its personnel (FSIS Notice 22–01) on procedures, including those for review of data collection protocols, that are to be followed during the period before the new water retention regulations become effective.

In the **Federal Register** of October 17, 2001 (66 FR 52715), FSIS published a notice on a petition by the National Chicken Council, the National Turkey Federation, the National Food Processors Association, and the American Meat Institute requesting that FSIS postpone until August 1, 2004, the effective date of the water retention regulations.

The petitioners assert that postponement of the effective date is necessary because affected companies will not be able to comply with the regulations until they have completed several steps for which the Agency did not allow sufficient time. The petitioners maintain that some companies will not be able to begin data collection under FSIS-accepted data collection protocols until late 2001; that testing to determine the relationship between *Salmonella* and water retention levels and seasonal variation in the moisture content of poultry will not be completed until early 2003; and that, after such testing, changes in labels and the labeling of many products affected by the final rule cannot be completed until mid-2004.

Comments on the Industry Petition

In the October 17, 2001, **Federal Register** notice, FSIS posed five questions:

1. Did the Agency allow the regulated industry sufficient time—one year from publication of the final rule—to prepare for implementation? Explain why the time for implementation was adequate or inadequate.

2. Is available laboratory capacity sufficient or insufficient to enable the industry to comply with the new regulations by the effective date?

3. Is there additional information on the time necessary to produce new labels for retained-water products that the Agency should consider?

4. Would postponement of the effective date be fair or unfair to anyone and, if so, how?

5. Would postponement of the effective date of the new retained water regulations (9 CFR 441.10) affect consumers and, if so, how?

In posing these questions, FSIS was seeking additional information not already available to help the Agency decide the matter addressed by the petition.

Most of the commenters responded to some or all of the five questions that FSIS posed in the notice. The Agency received 41 comments in response to the **Federal Register** notice on the petition. Thirty-seven comments were from poultry processing establishment managers or other poultry company officials. All favored postponing the effective date of the retained water regulations. A meat and poultry industry association also filed a comment supporting postponement. Two cattle producer associations and an FSIS employee opposed postponement.

Comments Supporting the Petition

Commenters that supported postponement of the effective date of the final rule stated that the time allowed the industry to prepare for implementation—one year—was insufficient. They noted that adequate guidelines for developing a moisture data collection protocol were not available from FSIS until summer 2001 and waiting for the FSIS to review protocols voluntarily submitted to the Agency consumed additional time. After completion of experimentation under the protocol, the commenters claimed, additional time would be necessary to develop a process control program and make the necessary adjustments to ensure its effectiveness.

Comments asserted that companies would have to have 2-to-12 months to exhaust their supplies of labeled packaging materials already in stock. Also, once reliable data on the amount of retained water in raw products had been developed, 2 to 3 months would be necessary for label suppliers to prepare new plates and labels for the products. Commenters noted that the development of new pre-labeled packaging for poultry products is a two-stage process involving, first, the development of new plates and second, the printing of new labels. They stated that there is insufficient label-making capacity in the industry to meet the demands for new labels of all companies trying to comply with the new regulations by the existing effective date.

Several managers of one firm argued that the short, one-year implementation time provided by the final rule would effectively force companies to label parts with ''up to X% retained moisture'' with X = the whole-bird retention amount. The reason for this is that the amount of retained moisture in whole birds is easier to determine than that for parts. But that amount is also likely to be significantly higher than the retention amount for parts.

The commenters that favored postponement of the effective date of the final rule argued that laboratory capacity available to establishments was insufficient for them to be able to meet the effective date. Most commenting on this issue said that their establishments do not have on-premises capability to do *Salmonella* testing and that they had no drying oven to use in the oven-drying test for total moisture. They also stated that they needed to collect additional samples to determine whether they would be meeting generic *E. coli* process control criteria under the new rule.

Those supporting the petition tended to argue that postponement would be fair to both consumers and the industry. Not postponing could result in a virtual shutdown of the industry because product would suddenly be misbranded and could not be sold legally. As a result, with the amount of animal protein product available to consumers decreasing, such product would only be available to them at higher prices. Also, a shutdown in the industry would affect farmers, feed suppliers, truckers, warehouses, and many others. Unemployment would increase. Reduced tax revenues would adversely affect the Government.

Those supporting the petition argued that postponement of the effective date would be fair to consumers. Consumers would continue to have protein product choices in the marketplace. The effect of the postponement on their budgets would be minimal. They would still be able to make informed purchasing decisions based on past industry performance. And they would experience no change in the acceptability and safety of the products.

Some poultry company officials argued that postponement would allow time for industry and Government to develop ''best practices,'' with the goal of providing more accurate information to consumers.

Some poultry company officials argued that non-poultry entity arguments, especially regarding the alleged unfairness to red meat of allowing retained water in poultry products, are political and not supportable without testing.

The association representing both meat and poultry companies suggested that precautions taken since the recent anthrax attacks through the mail may have resulted in delayed delivery of some draft protocols to FSIS, and thus their review.

Commenters Opposing Postponement

Those opposing postponement of the effective date of the final rule argued that the issue of allowing retained water in poultry products has been before FSIS for more than seven years. To delay implementation of the new regulations would be to perpetuate an inequity.

Moreover, these comments pointed out, the industry has known since at least September 1998 that changes in the regulations were imminent. These comments stated that some companies have prepared for the January 9, 2001, changes and will be ready, while other companies have deliberately avoided preparing in hopes that the effective date would be postponed and current practices continued.

These commenters said that the time frame for implementing the final rule was adequate and that the poultry products industry is only dragging its feet. The trade association representing cattle producers agreed with these commenters and added that since the poultry industry and FSIS had in July 2001 finally reached agreement on a protocol framework for determining retained water in products, the effective date for the entire poultry industry should be no later than July 2002.

Another opponent of the petition stated that available testing facilities are adequate. Many establishments are capable of performing necessary tests.

One opponent of the petition stated that simple labeling changes are often made at the establishment and can be effected in a few minutes. Elaborate labeling changes can be accomplished in just a few days.

Several opponents of the petition said that postponement of the effective date of the final rule would be unfair both to consumers and to the red meat industry. The poultry industry would benefit by continuing to be able to sell water to consumers at poultry prices.

One opponent of the petition stated that postponement of the effective date would certainly affect consumers. Since July 1997, there has been no regulatory limit on water retention in most raw poultry products; therefore, the consumer does not know how much water the product may retain from processing because the amount is not on the label. This commenter calculated that a postponement of 660 days would allow an average large poultry establishment to gain $30.2 million by in effect selling excess water without being held accountable for doing so.

One of the cattle producer associations stated that FSIS should acknowledge that the poultry industry has made dramatic progress in reducing *Salmonella* prevalence in the wake of the PR/HACCP rulemaking. Therefore FSIS should not force the poultry industry to perform a complicated analysis of the relationship between water retention levels and *Salmonella* prevalence at this time. Rather, the Agency should focus on requiring the poultry industry to minimize the amount of retained water in meeting the time/temperature chilling requirements for poultry and HACCP requirements.

This association said that, given the fact that the poultry industry and FSIS did not agree on a data-collection protocol framework until July 2001, labeling should be in place by January 2002 for those companies that are capable of meeting that deadline and by July 2002 for the whole industry.

FSIS' Response to the Petition and Comments

Having considered the petition and the comments received, the Agency differs somewhat with the industry on several matters addressed in the petition. Among these are: the effect of FSIS review of data collection protocols on poultry industry chilling system tests and data collection; the burden that testing associated with implementation of the new regulations will impose on industry laboratory capacity; the need for additional data collection to account for seasonal variation in naturally occurring moisture in poultry; and, moisture levels having been determined, the need for up to 14 additional months for labels to be prepared for all affected products.

Review of Protocols

Although FSIS has established a procedure for Agency review of protocols submitted by industry, the new retained water regulations merely require an establishment subject to the regulations to notify the Agency and make the protocol available for review and gives the Agency 30 days to object to or require the establishment to make changes in the protocol. The regulations do not literally preclude the establishment from undertaking data collection under a sound protocol as soon as the protocol is developed. An establishment's decision to wait until it receives a ''no objection'' letter from the Agency is not mandated.

On the point that the industry has had only since July 2001 to begin data collection under acceptable protocols, it is the case that questions about a ''model'' protocol were resolved by that time. However, the Agency's expectations respecting the necessary elements of such a protocol were known well before then. The Agency has encouraged the industry to undertake data collection since at least December 9, 1997, when FSIS published a **Federal Register** notice (62 FR 64767) detailing the elements of a data collection protocol for water retention in raw meat and poultry products.

In its petition, the industry asserts that because of the time needed for FSIS review of protocols, not all establishments will be able to begin data collection on retained water until December 2001. At present, FSIS has reviewed well over 200 protocols (238 by December 6, 2001) that were submitted for the most part by poultry slaughtering establishments. As the review of submitted protocols has proceeded, the review time per protocol has decreased and the review procedures have been perfected to the point that the Agency's Office of Policy, Program Development, and Evaluation will soon be able to turn over protocol review responsibilities to the Office of Field Operations.

FSIS understands that most establishments whose protocols have been reviewed are now well into the process of collecting retained water data and will soon have reliable information to support new product labels. This fact indicates to us that a typical poultry establishment may not need more than a few weeks to carry out trials of its chilling system using different sets of variables and obtain data that is sufficient to support retained water labeling.

Laboratory Capacity

Since the protocol review process is resulting in a phased beginning of data collection in the industry, the laboratories employed by the establishments can be expected to adjust to the gradually rising load on their analytical resources. Nor do the retained water regulations entail laboratory testing on a grandiose scale. Consequently, the scenario of an over burdened industry laboratory capacity as envisioned by the industry petition should not develop.

In their comments on the petition, many establishments expressed an interest in the oven drying method discussed in the final rule. These establishments noted that few of their laboratories were equipped with the apparatus necessary to apply the method. The need to send samples to an outside laboratory to obtain definitive total and retained water measurements would result in delaying results. Further, with many establishments requiring the same tests, the laboratory capacity available to the industry for

these tests would quickly become overburdened.

FSIS observes that, although the Agency does not discourage them from doing so, FSIS is not requiring establishments to perform microbiological testing on the scale contemplated by the industry in its petition. Nor does FSIS specifically require the use of the oven-drying method to determine the moisture content of raw products. FSIS merely has presented the method as the one that the Agency plans to use in its in-distribution sampling of products subject to the new regulations. Establishments may use other procedures to which they may be more accustomed to determine retained water in their products. For example, they may weigh product before and after chilling or other processing to determine whether the product weight has increased, and use this difference as a basis for calculating water retention. But they are not restricted to using any one method.

Seasonal variation: Regarding the effect of seasonal variation in the naturally occurring moisture in poultry on the total amount of water in raw products, FSIS disagrees with the industry's contention. The industry states in its petition, and supplies a chart to illustrate, that in some months naturally occurring moisture levels in poultry are higher than the annual mean, while in other months the levels are below the mean. Therefore, according to the petition, it will be necessary for any given establishment to have a full year's worth of data to be able to know precisely, on an on-going basis, what the total amount of water, and hence the retained water level in its product, will be.

In FSIS Notice 22–01 discussed above, FSIS states that the Agency will enforce the labeling provisions of the regulations in a manner similar to its enforcement of the nutrition labeling regulations. That is, FSIS plans to allow the labeled amount of retained water to vary by as much as 20 percent of the actual amount of retained water in the product. Such a variation is typically allowed to account for such factors as seasonal fluctuations in the occurrence of specific nutrients in raw food ingredients. The industry has indicated in its petition that the seasonal variation in poultry carcass yield, which is partly affected by changes in the amount of naturally occurring moisture in poultry, is typically just a small percent of yield weight. Since retained water is computed as a percent of the product weight, a small percentage point change in the natural product weight should not lead to discrepancies between actual and labeled retained water amounts that would ordinarily exceed the 20 percent allowable variation. Thus, it is unlikely that the variability in raw product moisture content would be so great as to cause FSIS to take an enforcement action against the establishment. That being the case, while more precise data are desirable, the need to collect additional data on seasonal variation in naturally occurring water should not influence a decision on the effective date of the retained water regulations.

Label Changes

The industry says in its petition that not until early 2003 will all establishments know the amount of retained moisture in their products. Also, according to the petition, the label printing capacity available to the industry is limited by the fact that only a few hundred label changes a month can be made, while about 6,500 poultry labels will have to be changed. Therefore, argues the industry, not until summer 2004 can new labels be printed for all establishments.

FSIS believes that most establishments will know the minimized levels of retained water in their products well before 2003, and indeed, some establishments already are in a position to change their labels. FSIS does not think the industry will have to study seasonal variation in naturally occurring moisture in poultry for a full year before it will be in a position to include retained water statements on product labels. Further, as one commenter on the petition noted, labeling changes are often made at the establishment. Simple labeling changes can be made in a few minutes; elaborate labeling changes can be accomplished in a few days. Of course, where printing plates for labels must be retooled, the change may take longer. Extending the effective date for one year should allow all establishments ample time to have the necessary changes made in their labels.

FSIS therefore thinks that most necessary product label changes can be made in the course of a year. Thus, FSIS does not think it necessary to postpone the effective date of the regulation for an extended period to allow for the completion, first, of seasonal variation studies and then of label changes.

FSIS' Response to Comments Opposing the Petition

FSIS agrees that postponement of the petition until August 2004 is not warranted. However, as discussed in the following section of this notice, FSIS believes that a one-year postponement is necessary and appropriate. In response to the comments concerning inequity between the meat and poultry industry and benefits to consumers resulting from the water retention regulations, FSIS does not believe that these comments are relevant to the date of enforcement of the regulations. With regard to the comments on labeling changes, FSIS agrees that an extension until August 2004 is not necessary. However, as discussed above, FSIS recognizes that if printing plates for labels must be retooled, the change may take longer than the opposing comments suggested. Finally, in response to the comment that FSIS should not force the poultry industry to perform a complicated analysis of the relationship between water retention levels and *Salmonella* prevalence at this time and that the Agency should focus instead on requiring the poultry industry to minimize the amount of retained water in meeting the time/temperature chilling requirements for poultry and HACCP requirements, FSIS believes the type of hazard most likely to be identified as susceptible of being controlled by the post-evisceration processes envisioned by the retained water regulations is a biological hazard. Similar arguments for postponement of the effective date of the regulations could be made on the basis of the need for microbial tests to verify HACCP controls as for microbial tests to verify that *Salmonella* performance targets are being met. Also, it should be noted that the Agency is developing a proposed rule to eliminate the time/temperature chilling requirements for poultry.

FSIS's Reasons for Granting a One-Year Suspension

FSIS is granting a one-year suspension of the water retention regulations in 9 CFR 441 because the Agency recognizes that some establishments in the poultry industry are not yet in a position to operate in compliance with the new regulations. Also, some small meat slaughtering and processing operations have yet to determine whether or not they are subject to the regulations and need some guidance respecting the kind of information they need to have to demonstrate that their raw products do not retain water. With additional time, if these establishments find that they are subject to the regulations, they will be able to take steps to ensure that they are in compliance with it.

A one-year suspension will allow the industry sufficient time to complete necessary experimentation, including microbial testing and chilling system trials, under FSIS-accepted data

collection protocols; to fine-tune and stabilize newly adjusted processes; and to conduct regular measurements of retained water at packaging. Members of this industry would have sufficient time to order new supplies of labels with statements reflecting the amount of retained water in raw products.

FSIS did not agree that an extension of the effective date until August 1, 2004, would be necessary for the reasons explained above in FSIS' response to the petition and comments. First, FSIS does not believe that industry laboratory capacity would become overburdened as a result of this rule. Second, FSIS does not believe that establishments would need to have a full year's worth of data on seasonal variation in naturally occurring water to be able to comply with the labeling requirements in the rule. Finally, FSIS believes that most necessary product label changes can be made in the course of a year.

In summary, FSIS believes that a one-year suspension of the water retention provisions in 9 CFR part 441 is appropriate and necessary. However, FSIS does not believe a further suspension would be warranted and does not intend to suspend the regulation beyond January 9, 2003.

Technical Amendments

The final rule promulgating the retained water regulations made numerous technical amendments in the sections of the poultry products inspection regulations that concern poultry chilling practices to improve consistency with the Pathogen Reduction/Hazard Analysis and Critical Control Points regulations, eliminate ''command- and control'' features, and reflect current technological capabilities and good manufacturing practices. FSIS also revised the definition of ''ready-to-cook'' poultry to account for the elimination of the requirement to remove kidneys from mature birds and removed several redundant provisions from the poultry products inspection regulations. These technical amendments were not controversial, and the effective date of these amendments will remain January 9, 2002.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the meeting and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect, or would be of interest to, our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

For the reasons set out in the preamble, 9 CFR Part 441, added at 66 FR 1771, January 9, 2001, is suspended from January 9, 2002, until January 9, 2003.

Done at Washington, DC, on January 8, 2002.

Margaret O'K. Glavin,

Acting Administrator.

[FR Doc. 02–738 Filed 1–8–02; 3:58 pm]

BILLING CODE 3410–DM–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052–AB93

Loan Policies and Operations; Definitions; Loan Purchases and Sales

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, we, or our) issues this final rule to amend our loan participation regulations. This final rule will enable Farm Credit System (FCS or System) institutions to better use existing statutory authority for loan participations by eliminating unnecessary regulatory restrictions that may have impeded effective participation relationships between System institutions and non-System lenders. We believe that these regulatory changes will improve the risk management capabilities of both System and non-System lenders and thereby, enhance the availability of reliable and competitive credit for agriculture and rural America.

EFFECTIVE DATE: This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Mark L. Johansen, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444.

Or

James M. Morris, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION

I. Objectives

Our objectives for this rule are to:

- Improve System institutions' ability to participate in today's loan participation market with both System and non-System lenders;
- Increase the flow of credit to agriculture and rural America; and
- Encourage improved working relationships between System institutions and non-System lenders.

The rule will help to achieve these objectives by:

- Removing two restrictive definitions of a ''loan participation'' which will permit System institutions to purchase or sell 100-percent loan participations;
- Removing the 10-percent retention requirement when loan servicing remains with a non-System lender; and
- Making technical and clarifying changes in the Federal Agricultural Mortgage Corporation's (Farmer Mac) participation authorities.

II. Background

Our existing rule limits the amount a System institution can participate in a non-System lender's loan to 90 percent of the outstanding principal when the non-System lender retains the servicing to the borrower. If the System institution acquires the servicing rights, it can participate in more of the loan, but is limited to an amount less than 100 percent of the outstanding principal due to the ''fractional undivided'' language contained in two regulatory definitions of ''loan participation.''

Our present regulations do not specifically refer to Farmer Mac as an ''other System institution'' for purposes of loan participation authorities because Farmer Mac's authority to buy, sell, hold, or assign loans was granted after the present regulations were written. These final regulations correct this omission.

III. Comments

On July 26, 2000, we published a proposed rule in the **Federal Register** to amend parts 614 and 619 of our regulations. *See* 65 FR 45931. We received 61 comment letters in response to our proposal. The majority of the comment letters were from boards of directors, management, or customers of System associations. We also received comments from five Farm Credit banks, two banking trade groups, and one community bank.

All but four of the comment letters supported the proposed rule. The four comment letters expressing concerns were from the banking trade groups, the community bank, and one Farm Credit bank. Comments opposing the proposed rule ranged from questioning FCA's authority to adopt the rule to expressing concerns that the proposed rule moves the System away from its cooperative principles. We did not receive any comments opposing the removal of the 10-percent retention requirement or the proposed technical and clarifying changes concerning Farmer Mac. After carefully considering the comments received, we are adopting the proposed rule without substantive change.

A. FCA's Authority To Revise the Loan Purchases and Sales Regulation

1. Participation Authority

The final rule eliminates two overly restrictive regulatory definitions in order to give System institutions the authority to buy and sell loan participations up to 100 percent of the outstanding principal. Some comment letters contend that the Farm Credit Act of 1971, as amended (Act) does not permit us to authorize the purchase and sale of 100-percent participations. FCA has the authority to define the meaning of the terms used in the Act. We previously adopted more narrow regulatory definitions of loan participations than we now believe is required by statute. The Act does not provide a specific definition of a loan participation other than that contained in section 3.1(11)(b)(iv), which specifically applies only to ''similar entity'' participations and does not limit the percentage of interest in a participation. We now have determined that we should remove these regulatory definitions and allow purchases and sales of 100-percent loan participations.

We previously restricted a loan participation to a ''fractional'' undivided interest, something less than 100 percent.[1] Prior to issuing the proposed rule last year, we reviewed this restrictive language and concluded that the Act does not require such a narrow definition. Section 1.5 of the Act provides that Farm Credit Banks, ''subject to regulation by the Farm Credit Administration, shall have power to * * * make, participate in, and discount loans'' and may ''participate with'' other financial institutions in loans authorized under the Act.[2] There are no statutory limitations on the percentage of a loan in which a Farm Credit bank may participate.[3] Similarly, sections 2.2 and 3.1 of the Act provide, respectively, that a production credit association may ''make and participate in loans'' and a bank for cooperatives may ''participate in loans,'' subject to regulation by the FCA. Nowhere does the Act provide that a participation interest must be less than 100 percent.

The present FCA regulatory definitions are overly restrictive and not consistent with current banking practices. In 1984, the Office of the Comptroller of the Currency (OCC) issued a banking circular[4] that provides that loan participations can include ''all or a portion'' of the loan. In addition, the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the OCC, and the Office of Thrift Supervision (OTS) issued an interagency statement on sales of 100-percent loan participations on April 10, 1997. The interagency statement provided guidance on the use of 100-percent loan participations in light of a 1992 court decision[5] that concluded that such participations did not involve the sale of securities under Federal securities laws. By recognizing 100-percent loan participations, the banking guidance effectively removed the fractional-interest characteristic as a defining feature of a loan participation.

Under the Act, System institutions have the authority to participate in loans. Because the Act does not limit the percentage of participations, we do not believe that this statutory authority should be interpreted to exclude 100-percent loan participations.

The final rule gives System institutions the freedom to exercise their statutory authority to acquire such participations by removing the regulatory definitions of ''loan participation'' from §§ 614.4325(a)(4) and 619.9195. By removing these restrictive definitions, we provide System institutions comparable flexibility afforded by the Federal Reserve, FDIC, OCC and OTS to commercial banks and thrift institutions. This will enable System institutions to make better use of their statutory authority, to cooperate and participate with non-System lenders, and to improve access to credit for agriculture and rural America.

Commenting on our proposed rule, a banking trade group argued that in the mid-1990's Congress explicitly denied a System attempt to increase its authority to purchase whole loans and to participate with non-System lenders in loans of up to 100 percent of the outstanding principal. At that time, the System's trade association, the Farm Credit Council (FCC), asked Congress to provide the System the authority to purchase ''whole'' loans from commercial banks. The document that the commenter cited referred to loan purchases, not loan participations. We found no evidence that the System's trade association included a request for 100-percent participation authority with their request for whole loan purchase authority.

2. Distinction Between Loan Participations and Loan Purchases

Several commenters apparently confused 100-percent loan participation authority with the authority to purchase and sell interests in ''whole loans.'' The Act recognizes these as separate and distinct authorities and specifically authorizes System institutions to purchase or sell participations. The authorities are separate regardless of whether the interests are 100 percent or something less.

Loan participations are a type of funding arrangement separate and distinct from either partial or whole loan purchases. The distinction centers around who retains the legal relationship with the borrower. In a loan purchase, part or all of the lending relationship transfers to the purchasing institution. By definition, a whole loan purchase includes not only the purchase

[1] We expressed this position in the preamble of the proposed Lending Authorities regulations (56 FR 2452, January 23, 1991).

[2] Section 1.5(16) of the Act authorizes FCS banks operating under title I to sell ''interests in loans'' to lenders that are not FCS institutions and expressly authorizes FCS banks to buy ''interests in loans'' from FCS institutions. Section 1.5(6) and section 1.5(12) separately grant express authority to ''participate'' in loans. Section 1.5(12) grants express authority to ''participate'' with ''lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title.''

[3] We are not aware of any legislative history that limits the percentage of authorized ''participations.''

[4] OCC–BC–181 ''Purchases of Loans in Whole or Part-Participations'' (August 2, 1984).

[5] *Banco Espanol De Credito* v. *Security Pacific National Bank,* 973 F.2d 51 (2nd Cir. 1992).

of the asset, but its cashflows, the legal relationship, and the servicing requirements. The relationship in a loan participation, regardless of the participation amount (100 percent or some amount less than 100 percent), consists only of cashflows from the loan and possibly the servicing rights for the loan. The legal lending relationship stays with the originating lender.

While 100-percent loan participations may resemble whole loan purchases in some respects, the financial markets recognize them as separate and distinct transactions. In addition, courts have recognized the legal distinction between participations and loan purchases and the separate legal effects of loan participation agreements.[6] Finally, other financial regulators recognize the legal distinctions between loan participations and selling whole loans, which involves the transfer of title.[7]

B. Participation Authority and Farmer Mac

The rule clarifies the authority of Farmer Mac and other System institutions to participate with each other. Some commenters argued that our proposal would duplicate Farmer Mac authorities and increase the risk to the System. Comment letters noted that selling loans to the secondary market through Farmer Mac provides liquidity and helps lending institutions manage portfolio concentrations. A banking trade group asserted that the ability of System institutions, acting as poolers, to purchase whole loans through the Farmer Mac I program provides the same benefit as this final rule would provide, but in a safer environment.

System institutions have several tools they can use to improve liquidity and manage their loan portfolios. Selling loans to the secondary market is one of these tools, but is not the answer to all of an institution's needs.

Pooling authorities and the ability to purchase or sell 100-percent loan participations serve different purposes. As a pooler, a System institution is a conduit between the originating lender and the secondary market through Farmer Mac. While the System institution, as pooler, would receive a fee for its services, it would not be able to use this activity as a risk mitigation tool, unless its loans were in the pool. On the other hand, if the institution purchased a loan participation, it would hold the participation interest in the loan on its books and be able to use the participation to mitigate risks in its portfolio.

More significantly, loan participations potentially involve more types of loans than are eligible under Farmer Mac authorities. Loans sold to Farmer Mac are restricted to first mortgage loans, but System institutions and non-System lenders can participate in other types of loans. This rule provides more options to the originating and participating lender. This will not only afford increased business opportunities but will also help lenders to mitigate portfolio and concentration risk and better manage liquidity. As a result, the authorities provided in this rule, along with the ability to sell mortgage loans through Farmer Mac, have the ability to increase the availability of credit to farmers, ranchers, agriculture, and rural America.

While we recognize System loan participation authorities may overlap with some of Farmer Mac's authorities, we do not believe our amended participation regulations will adversely impact Farmer Mac's operations. We note that Farmer Mac provided favorable comment on the proposed rule and did not indicate that provisions in the rule would be harmful.

C. Establishing Loan Participation Relationships

A Farm Credit Bank asserted that aggressive System institutions would retain independent contractors outside of their chartered territory to originate loans for them. The commenter stated that this rule along with the existing FCA regulation that permits System institutions to participate in loans outside their chartered territory without the concurrence of other FCS institutions (65 FR 24101, Apr. 25, 2000) would result in a *de facto* national charter in that a System institution could have lending relationships (in this case a participation relationship) outside its chartered territory.

This rule and the authority for System institutions to participate in loans outside their chartered territory without receiving consent does not result in a *de facto* national charter. FCA's removal of the concurrence requirement provided FCS institutions the ability to enter into less than 100-percent participation interests in loans originated outside of their chartered territory without receiving concurrence. The actual change that this rule adds is to our participation authorities and not to our loan origination authorities. Therefore, it does not result in a *de facto* national charter, as it does not provide System institutions the authority to make loans outside their chartered territory.

The FCC asked that System institutions be allowed to purchase participation interests in loans from private individuals. System institutions are authorized to purchase participation interests in loans from ''* * * lenders that are not Farm Credit institutions.'' We have previously defined the term ''other lenders'' in a preamble to an earlier rulemaking (57 FR 38237, Aug. 24, 1992) to include commercial banks, savings associations, credit unions, insurance companies, trust companies, agricultural credit corporations, incorporated livestock loan companies, and other financial intermediaries that extend credit as a regular part of their business. We reiterate our previous interpretation here with respect to the meaning of the term ''lender.''

D. Loan Participations and Cooperative Principles

Several commenters observed that when a System institution buys a loan participation the borrower does not obtain stock in the institution and is not afforded borrower rights under the Act. Commenters stated that a System institution could have a portfolio in which the majority of its loans were participations. Commenters argued that these loans do not contribute capital, that borrowers holding these loans do not participate in System governance, and that these borrowers are not afforded the rights given to System borrowers by Congress. The comment letters argued that there would be a

[6] For example, in *McVay* v. *Western Plains Corp.,* 823 F.2d 1395 (10th Cir., 1987), the court stated: ''In general, loan participations are a common and wholesome credit device . . . . In a typical loan participation . . . . the lead bank enters into participation agreements with the other banks but acts in relation to the loan and borrower . . . For example, the lead bank will appear as the only party on the note and mortgage. It generally also services the loan, which includes the right to make decisions concerning acceleration, foreclosure, redemption, and deficiencies.'' Additionally, *In re Okura & Co.,* 249 B. R. 596 (Bankr. S.D.N.Y. 2000), concluded that the participation agreement between the lead bank and another lender was a ''true loan participation'' that did not result in a partial assignment of the lead lender's right to payment from the debtor or otherwise give the participating bank lender any right to payment from the debtor. Therefore, the participant did not have a ''claim'' that would make it a ''creditor'' in the debtor's bankruptcy proceeding. In discussing the characteristics of loan participations, the court stated, ''The most common multiple lending agreement is the loan participation agreement, which involves two independent, bilateral relationships; the first between the borrower and the lead bank and the second between the lead bank and the participant. As a general rule, the participants do not have privity of contract with the underlying borrower.''

[7] For example, a National Credit Union Administration letter, dated September 18, 1996, refused to permit the use of participations to increase a credit union's lending to one member, stating: ''A credit union may not circumvent this restriction by selling loan participations because title to the loan normally does not transfer to the purchasers. Since the credit union retains title, selling loan participations does not reduce the ratio between the loan to the member and the credit union's reserves.''

disparity between the System's treatment of those who borrow from the System and those in whose loans the System participated.

In response, we note that the System institutions may not exercise their participation authority in a manner that impedes service to their territory. Each institution's board of directors must establish limits on the amount of loan participations they can purchase.[8] The preamble that proposed the present § 614.4325(c)(4) stated that it ''* * would require that institution policies specify limits on the aggregate amount of interest on loans that may be purchased, including participation interests, sufficient to ensure that the primary mission of the institution to provide credit directly to agriculture is not compromised.'' (*See* 56 FR 2452, Jan. 23, 1991) In response to the issues raised in the comment letters, we reaffirm that each institution needs to establish these limits and that FCA will continue to evaluate the institution's participation programs as a part of our examination process.

In response to commenters' concerns about System governance and borrower rights, borrowers who obtain loans from another lender instead of a System institution are not, in fact, System ''borrowers.'' This remains true even if a System institution later buys a 100-percent participation interest in a loan from a non-System lender. A loan participation is a lender-to-lender transaction and, thus, borrowers remain obligated to the loan originator. When a borrower receives a loan from a non-System lender, that borrower has no legal entitlement to System governance rights or System borrower rights. The purchaser of a participation interest does not have a legal relationship with the borrower.

E. Safety and Soundness

We view safety and soundness controls as a cornerstone to an effective loan participation program. Lenders should use loan participations primarily as a risk diversification tool. While this rule may increase the System's loan participation activity, we expect System institutions to maintain appropriate risk levels and to implement the provisions allowed by this rule in a safe and sound manner. Commenters also discussed this concern. Institutions should not use this authority in a manner that results in an unsafe and unsound increase in commodity or geographical risk. We expect a thorough due diligence effort at the outset of any participation relationship.

A participation relationship is a direct relationship between the originating lender and the purchasing institution and not between the purchasing institution and the borrower. Therefore, prudent underwriting procedures dictate that the purchasing institution must complete a thorough due diligence analysis of the originating lender and the loan, or pool of loans, being participated. We outline specific requirements in § 614.4325(e) and provide additional guidance in FCA Bookletter (BL–027) which was sent to all Farm Credit institutions on March 27, 1996, to ensure the loan or pool of loans being participated in is of sound quality and that the originating lender has the capacity to manage the risk and exercise the responsibilities retained as the seller of a participation.

The responsibility of the System institution as purchaser does not end with the initial due diligence analysis. Following FCA guidance and sound lending practices, System institutions should complete a periodic analysis of the originating lender to ensure that the lender remains able to manage the risk and exercise its responsibilities. Failure to complete this due diligence prior to purchasing a loan participation and on a periodic basis may be considered an unsafe and unsound practice.

As in the preamble to the proposed rule, we again emphasize the importance of appropriate management of loan participations in ensuring safety and soundness as follows.

1. Controlling Risk of Participations

Risk control issues arise with loan participations. Some of these are typical of any credit arrangement. However, 100-percent participations can increase certain types of risks if not controlled and managed appropriately. Therefore, System institutions should take extra care in developing the policies and procedures for their participation programs, especially if they intend to buy 100-percent participations. An institution's policies and procedures and participation agreements should, at a minimum, address the following:

- *Credit risk*—The participant depends on the originating lender to obtain, develop, and evaluate the relevant information about the borrower and the structure of the credit.
- *Legal risk*—The originating lender typically prepares the documentation for the loan and perfects any security interests. The participant generally has a share of the rights of the originating lender. If deficiencies exist, the participant's rights may be limited.
- *Administrative risk*—Typically, the participant must rely on the originating lender to: (a) Service, monitor, and control the credit relationship with the borrower; (b) provide information about the borrower; and (c) remit payments received from the borrower. All of these administrative actions should be addressed in the participation agreement as well as the parties' duties and responsibilities.

A participant's administrative risk increases when the originating lender has no direct financial interest in the loan. Removing the 10-percent retention requirement as permitted by this rule could increase this risk. The participation agreement should specifically address whether the seller has the ability, and under what circumstances, to transfer or sell the note or agreement to a third party without concurrence by the participant.

2. Managing Portfolio Risk

Our current regulations (§ 614.4325(c)(4)) require each System institution involved in loan participation activities to develop and implement specific policies and procedures for such programs, including establishing appropriate portfolio limits to control risk.

While participations offer a number of advantages to managing an institution's portfolio (especially as risk diversification tools) they also carry additional risks not common to a normal borrower/lender relationship. We believe policy direction from a System institution's board of directors becomes even more important with these changes to the existing rule. Each institution board that plans to use loan participations should set portfolio limitations and review them periodically to ensure loan participations are appropriately integrated into the institution's overall business plan and risk management strategies.

IV. Conclusion

After carefully considering all comments received, we adopt the rule as proposed without change. We believe that the provisions of this final rule will give System institutions the needed flexibility to engage in loan participations with other System institutions, Farmer Mac, and non-System lenders. Benefits to System institutions include risk management and risk concentration alternatives as well as additional diversified interest income sources. In addition, to the extent this regulation enables System institutions to establish relationships with non-System lenders through loan participations, both parties should mutually benefit. Possible incidental

[8] *See* § 614.4325(c)(4) of our regulations.

benefits to non-System lenders include increases in fee income, immediate liquidity relief, and having access to alternative and reliable funding sources. Most importantly, we believe expanded lender-to-lender relationships will benefit farmers, ranchers, agriculture, and rural America by increasing access to available credit.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets in excess of $5 billion and annual income in excess of $400 million. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 619

Agriculture, Banks, banking, Rural areas.

For the reasons stated in the preamble, we amend parts 614 and 619 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows: e

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart A—Lending Authorities

2. Amend § 614.4000 as follows:

a. Remove the word ''and'' at the end of paragraph (d)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (d)(2); and

c. Add paragraph (d)(3) to read as follows:

§ 614.4000 Farm Credit Banks.

* * * * *

(d)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

3. Amend § 614.4010 as follows:

a. Remove the ''.'' and add ''; and'' at the end of paragraph (e)(2); and

b. Add paragraph (e)(3) to read as follows:

§ 614.4010 Agricultural credit banks.

* * * * *

(e)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

4. Amend § 614.4020 as follows:

a. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

b. Add paragraph (b)(3) to read as follows:

§ 614.4020 Banks for cooperatives.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

5. Amend § 614.4030 as follows:

a. Remove the word ''and'' at the end of paragraph (b)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

c. Add paragraph (b)(3) to read as follows:

§ 614.4030 Federal land credit associations.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

6. Amend § 614.4040 as follows:

a. Remove the word ''and'' at the end of paragraph (b)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

c. Add paragraph (b)(3) to read as follows:

§ 614.4040 Production credit associations.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

7. Amend § 614.4050 as follows:

a. Remove the word ''and'' at the end of paragraph (c)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (c)(2); and

c. Add paragraph (c)(3) to read as follows:

§ 614.4050 Agricultural credit associations.

* * * * *

(c)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

8. Add a new § 614.4055 to read as follows:

§ 614.4055 Federal Agricultural Mortgage Corporation loan participations.

Subject to the requirements of subpart H of this part 614:

(a) Any Farm Credit System bank or direct lender association may buy from, and sell to, the Federal Agricultural Mortgage Corporation, participation interests in ''qualified loans.''

(b) The Federal Agricultural Mortgage Corporation may buy from, and sell to, any Farm Credit System bank or direct lender association, or lender that is not a Farm Credit System institution, participation interests in ''qualified loans.''

(c) For purposes of this section, ''qualified loans'' means qualified loans as defined in section 8.0(9) of the Act.

Subpart H—Loan Purchases and Sales

9. Amend § 614.4325 by:

a. Removing paragraph (a)(4);

b. Redesignating paragraphs (a)(5), (a)(6), and (a)(7) as paragraphs (a)(4), (a)(5), and (a)(6), respectively; and revising newly designated paragraph (a)(4) to read as follows:

§ 614.4325 Purchase and sale of interests in loans.

* * * * *

(a)(4) *Participating institution* means an institution that purchases a participation interest in a loan originated by another lender.

* * * * *

§ 614.4330 [Amended]

10. Amend § 614.4330 as follows:

a. Remove the words ''an undivided'' and add in their place the words ''a participation'' in paragraph (a)(9); and

b. Remove paragraph (b) and redesignate existing paragraph (c) as paragraph (b).

Subpart J—Lending and Leasing Limits

§ 614.4358 [Amended]

11. Amend § 614.4358 as follows:

a. Remove paragraph (b)(4)(i); and

b. Redesignate paragraphs (b)(4)(ii) and (b)(4)(iii) as paragraphs (b)(4)(i) and (b)(4)(ii), respectively.

PART 619—DEFINITIONS

12. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 4.9, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8 of the Farm Credit Act (12 U.S.C. 2015, 2075, 2160, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b–1, 2279b–2).

§ 619.9195 [Removed and Reserved]

13. Remove and reserve § 619.9195.

Dated: January 7, 2002.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 02–639 Filed 1–9–02; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–30–AD; Amendment 39–12579; AD 2001–26–13]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Model PC–7 airplanes. This AD requires you to inspect the landing-gear emergency-extension cable for damage and replace if necessary; verify the correct installation of the bowden-cable conduit clamp and correct if necessary; and modify the temperature-control lever mechanism. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the malfunction of the emergency landing-gear extension system. Insufficient clearance between the temperature-control lever mechanism and the landing-gear emergency-extension cable could result in damage to the emergency landing gear extension cable, or the cable could get caught on the temperature control lever. Damage to, or interference with, the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

DATES: This AD becomes effective on February 12, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of February 12, 2002.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–30–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Model PC–7 airplanes. The FOCA reports one occurrence of restricted movement of the temperature control lever. Investigation of the problem revealed that the landing-gear emergency-extension cable was caught on the temperature-control lever mechanism. Insufficient clearance between the landing-gear emergency-extension cable and the temperature-control lever caused the interference. This interference could also cause damage to the landing-gear emergency-extension cable.

What Is the Potential Impact if FAA Took No Action?

If not detected and corrected, damage to or interference with the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Model PC–7 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 10, 2001 (66 FR 51611). The NPRM proposed to require you to inspect the landing-gear emergency-extension cable for damage; replace any damaged landing-gear emergency-extension cable; verify the correct installation of the bowden-cable conduit clamp; correct improper installation of the clamp; and install a new bolt and a new nut on the temperature-control lever mechanism.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact

We estimate that this AD affects 13 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

The manufacturer has agreed to pay the costs for the inspection, replacement parts, and installation workhours.

The only impact this AD will have on the owners/operators of the affected airplanes is the time it will take to have the actions of this AD incorporated.

Compliance Time of This AD

What Will Be the Compliance Time of This AD?

The compliance time of this AD is ''within the next 12 calendar months after the effective date of this AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

Although malfunction of the emergency landing gear extension system is unsafe during flight, the condition is not a direct result of airplane operation. The chance of this situation occurring is the same for an airplane with 10 hours TIS as it would be for an airplane with 500 hours TIS.

A calendar time for compliance will ensure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–26–13 Pilatus Aircraft Ltd.: Amendment 39–12579; Docket No. 2001–CE–30–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model PC–7 airplanes, Manufacturer Serial Number (MSN) 001 through MSN 616, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the malfunction of the emergency landing-gear extension system. Insufficient clearance between the temperature-control lever mechanism and the landing-gear emergency-extension cable could result in damage to the emergency landing gear extension cable, or the cable could get caught on the temperature control lever. Damage to, or interference with, the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the landing-gear emergency-extension cable for damage and replace any damaged cable found.	Inspect within the next 12 calendar months after February 12, 2002 (the effective date of this AD). Replace prior to further flight.	In accordance with Pilatus PC–7 Service Bulletin No. 32–020, dated July 5, 2001.
(2) Verify the correct installation of the bowden-cable conduit clamp, correct if necessary, and install a new bolt and a new nut in the temperature-control lever mechanism.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with Pilatus PC–7 Service Bulletin No. 32–020, dated July 5, 2001.
(3) Do not install any temperature-control lever mechanism (or FAA-approved equivalent part number), unless it has been modified as required in paragraph (d)(2) of this AD.	As of February 12, 2002 (the effective date of this AD).	Not applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Pilatus PC–7 Service Bulletin No. 32–020, dated July 5, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Swiss AD HB 2001–483, dated August 20, 2001.

(i) *When does this amendment become effective?* This amendment becomes effective on February 12, 2002.

Issued in Kansas City, Missouri, on December 21, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–149 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30288; Amdt. No. 2087]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on January 4, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
12/17/01	ME	Wiscasset	Wiscasset	1/3252	NDB RWY 25, AMDT 25A...
12/17/01	ME	Wiscasset	Wiscasset	1/3253	GPS RWY 25, AMDT 1...
12/17/01	ME	Wiscasset	Wiscasset	1/3254	GPS RWY 7, AMDT 1...
12/17/01	CA	Oakland	Metropolitan Oakland Intl	1/3273	VOR OR GPS RWY 9R, AMDT 7B...
12/27/01	MD	Indian Head	Maryland	1/3464	VOR–A, ORIG...
12/27/01	MD	Elkton	Cecil County	1/3543	RNAV (GPS) RWY 31, ORIG...

[FR Doc. 02–653 Filed 1–9–02; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30287; Amdt. No. 2086]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce,

I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a significant regulatory action'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on January 4, 2002.

James J. Ballough,

Director, Flight Standards Services.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective February 21, 2002*

Morris, IL, Morris Muni-James R. Washburn Field, RNAV (GPS) RWY 18, Orig
Morris, IL, Morris Muni-James R. Washburn Field, RNAV (GPS) RWY 36, Orig
Davison, MI, Athelone Williams Memorial, VOR RWY 8, Orig
Davison, MI, Athelone Williams Memorial, VOR OR GPS RWY 8, Amdt 3A CANCELLED
Davison, MI, Athelone Williams Memorial, VOR RWY 8, Orig
Davison, MI, Athelone Williams Memorial, RNAV (GPS) RWY 8, Orig
Davison, MI, Athelone Williams Memorial, RNAV (GPS) RWY 26, Orig
Linden, MI, Prices, VOR–A, Orig
Linden, MI, Prices, VOR OR GPS–A, Amdt 4 CANCELLED
Linden, MI, Prices, RNAV (GPS) RWY 9, Orig
Linden, MI, Prices, RNAV (GPS) RWY 27, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 6, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 12L, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 12R, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 24, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 30L, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 30R, Orig
Hillsboro, ND, Hillsboro Muni, RNAV (GPS) RWY 16, Orig
Hillsboro, ND, Hillsboro Muni, RNAV (GPS) RWY 34, Orig
Hillsboro, ND, Hillsboro Muni, GPS RWY 16, Orig-B CANCELLED
Hillsboro, ND, Hillsboro Muni, GPS RWY 34, Orig-B CANCELLED
Kenmare, ND, Kenmare Muni, RNAV (GPS) RWY 26, Orig
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 14, Orig
Beaufort, NC, Michael J. Smith Field, GPS RWY 14, Orig, CANCELLED
Chapel Hill, NC, Horace Williams, VOR/DME RWY 27, Amdt 1
Chapel Hill, NC, Horace Williams, GPS RWY 9, Orig, CANCELLED
Chapel Hill, NC, Horace Williams, GPS RWY 27, Orig, CANCELLED
Chapel Hill, NC, Horace Williams, RNAV (GPS) RWY 9, Orig
Chapel Hill, NC, Horace Williams, RNAV (GPS) RWY 27, Orig

[FR Doc. 02–652 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

RIN 1076–AE28

Distribution of Fiscal Year 2002 Indian Reservation Roads Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Temporary rule and request for comments.

SUMMARY: We are issuing a temporary rule requiring that we distribute 75 percent of fiscal year 2002 Indian Reservation Roads (IRR) Program funds to projects on or near Indian reservations using the relative need formula. As we did in fiscal years 2000 and 2001, we are using the Federal Highway Administration (FHWA) Price Trends report for information to calculate the relative need formula, with appropriate modifications to address non-reporting states. We are reserving up to $19.53 million to allow federally recognized tribes to apply for $35,000 each for administrative capacity building and other eligible transportation activities for fiscal year 2002 and we will distribute the balance of the remaining 25 percent of fiscal year 2002 IRR Program funds according to the relative need formula.

DATES: This temporary rule is effective January 10, 2002, through September 30, 2002. We will accept comments on this temporary rule until February 11, 2002.

ADDRESSES: You may send comments on the formula for distribution of the Fiscal Year 2002 IRR funds to: LeRoy Gishi, Chief, Division of Transportation, Office of Trust Responsibility, Bureau of Indian Affairs, 1849 C Street, NW., MS–4058–MIB, Washington, DC 20240. Mr. Gishi may also be reached at 202–208–4359 (phone), 202–208–4696 (fax), or leroygishi@bia.gov (electronic mail).

FOR FURTHER INFORMATION CONTACT: LeRoy Gishi, Chief, Division of Transportation, Office of Trust Responsibilities, Bureau of Indian Affairs, 1849 C Street, NW., MS–4058—MIB, Washington, DC 20240. Mr. Gishi may also be reached at 202–208–4359 (phone), 202–208–4696 (fax), or *leroygishi@bia.gov* (electronic mail).

SUPPLEMENTARY INFORMATION:

Background

Where Can I Find General Background Information on the Indian Reservation Roads Program, the Relative Need Formula, the FHWA Price Trends Report, and the Transportation Equity Act for the 21st Century (TEA–21) Negotiated Rulemaking Process?

The background information on the IRR Program, the relative need formula, the FHWA Price Trends Report, and the TEA–21 Negotiated Rulemaking process is detailed in the **Federal Register** Notice dated February 15, 2000 (65 FR 7431). You may obtain additional information on the IRR Program web site at *http://www.irr.bia.gov.*

What Was the Basis for Distribution of Fiscal Years 2000 and 2001 Funds?

For fiscal year 2000 IRR Program funds, the Secretary published two interim rules distributing one-half of the funds in February 2000 and the second half of the funds in June 2000. For fiscal year 2001 IRR Program funds, the Secretary published two interim rules distributing 75 percent of the funds in January 2001, and the remaining 25 percent of the funds in March 2001. These distributions followed the TEA–21 Negotiated Rulemaking Committee's recommendation to the Secretary in January 2000 and November 2000 to distribute fiscal years 2000 and 2001 IRR Program funds under the relative need formula used in 1998 and 1999, while continuing to develop a proposed formula to publish for comment. In addition, in fiscal years 2000 and 2001 we modified the Federal Highway Administration Price Trends Report indices to account for two non-reporting states.

What Is the Basis for Distribution of Fiscal Year 2002 IRR Program Funds?

The Transportation Equity Act for the 21st Century (TEA–21) provides that the Secretary develop rules and a funding formula for fiscal year 2000 and subsequent fiscal years to implement the Indian Reservation Roads program section of the Act. The Negotiated Rulemaking Committee created under Section 1115 of TEA–21 and comprised of representatives of tribal governments and the Federal Government has been diligently working to develop a funding formula that addresses the Congressionally identified criteria, Committee and tribal recommendations, and is consistent with overall Federal Indian Policy.

The Committee is developing a permanent funding formula that will be published during 2002 in the **Federal Register** for public comment. In the meantime, there are about 1400 ongoing road and bridge construction projects on or near Indian reservations which need fiscal year 2002 funding to continue or complete work. Partially constructed road and bridge projects could pose safety threats. Other road and bridge projects need to be planned or initiated in this fiscal year.

This rule is published as a temporary rule only for interim funding for fiscal year 2002 and sets no precedent for the final rule to be published as required by Section 1115 of TEA–21. The TEA–21 Negotiated Rulemaking Committee agrees that an interim funding formula for fiscal year 2002 is needed. The Committee expects to recommend the publication of a formula for public comment so that a permanent formula can be established for fiscal year 2003, which will begin October 1, 2002. The interim formula for the current fiscal year will also provide tribes with the critical resources to develop inventory data, long-range transportation plans, transportation improvement programs and other information necessary to distribute funds under a new funding formula to be put in place for fiscal year 2003.

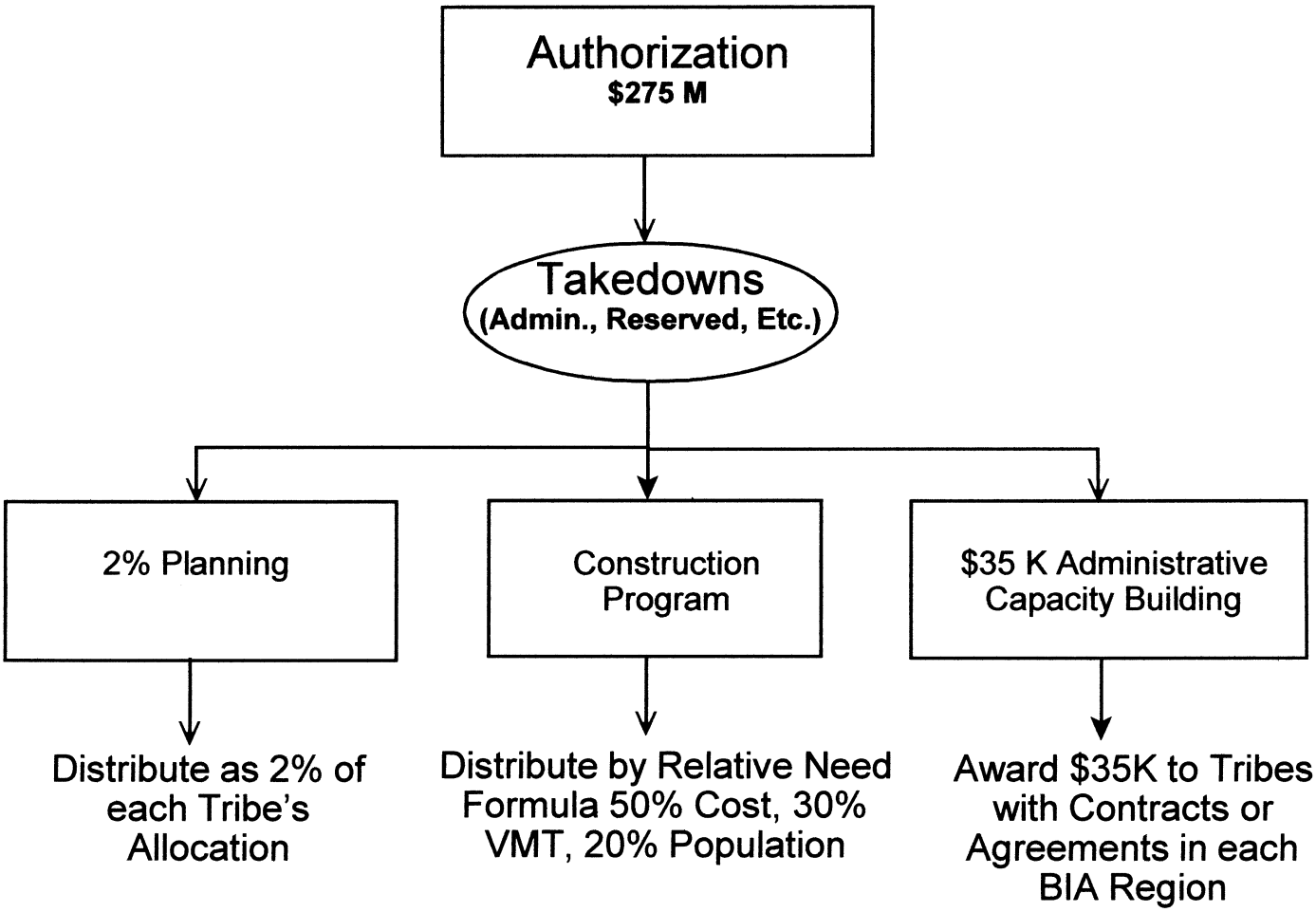
The Secretary is basing this distribution on the TEA–21 Negotiated Rulemaking Committee's tribal caucus recommendation for distribution of fiscal year 2001 IRR Program funds.

How Will the Secretary Distribute Fiscal Year 2002 IRR Program Funds?

Upon publication of this rule and upon enactment of the Department of Transportation Appropriations Act and receipt of contract authority from the Federal Highway Administration, the Secretary will distribute 75 percent of fiscal year 2002 IRR Program funds based on the current relative need formula used in fiscal years 2000 and 2001, and the indices from the FHWA Price Trends Report with appropriate modifications for non-reporting states in the relative need formula distribution process. We will distribute fiscal year 2002 IRR Program funds to the twelve BIA regions using this distribution process. From the remaining 25 percent of fiscal year 2002 IRR Program funds, we are reserving $19.53 million for federally recognized tribes who apply for and have negotiated contracts or agreements for up to $35,000 for administrative capacity building and other eligible transportation activities under the IRR Program. We are requesting comments on the appropriateness of $19.53 million for administrative capacity building and the use of the current relative need formula for distribution of the remaining 25 percent of fiscal year 2002 IRR Program funds.

What Formula Components Are We Using for Distribution of Fiscal Year 2002 IRR Program Funds and How Are They Related?

The following diagram shows the relationship between components for fiscal year 2002 IRR Program funds distribution:



What Data Are We Using for the Interim Distribution Funding Formula?

We are using the most current road inventory data (September 2001) maintained by the Bureau of Indian Affairs.

What Is the Purpose of Administrative Capacity Building?

The primary purpose of administrative capacity building is to provide all tribes an opportunity to participate in the IRR Program by updating transportation needs inventories and performing other transportation planning activities.

How Are We Distributing the Reserved Administrative Capacity Building Funds to the Twelve BIA Regions?

The administrative capacity building funds are to be reserved at BIA until the application/award deadline is met. When we distribute the reserved administrative capacity building funds ($19.53 million) from the second distribution for 25 percent of fiscal year 2002 IRR Program funds, we will distribute to the twelve BIA regions based on the number of tribes in the region that request to participate by tribal resolution or other official action of the tribe.

How Will We Provide Administrative Capacity Building Funds to Tribes?

Any federally recognized tribe may apply to the appropriate BIA region for administrative capacity building funds under the Indian Self-Determination and Educational Assistance Act (Pub. L. 93–638) no later than April 15, 2002.

How Will BIA Provide Administrative Capacity Building Services to Direct Service Tribes?

The BIA regions will provide administrative capacity building services to tribes in their regions that request such services.

What Must a Self-Determination or Self-Governance Tribe Provide in Its Application to the BIA Region for Administrative Capacity Building Funds for Fiscal Year 2002?

A self-determination or self-governance tribe must make application to the appropriate BIA Region by April 15, 2002 and must include:

(a) Scope of work;

(b) Detailed budget not to exceed $35,000; and

(c) Official tribal resolution or other official action of the tribe requesting the funds.

What Will BIA Do With Any Reserved Funds That Have Not Been Awarded to Tribes for Administrative Capacity Building After August 15, 2002?

We will distribute the remaining funds to the twelve BIA regions based on the relative need formula discussed in this rule. It is important that each tribe submit its application for administrative capacity building within the established deadlines so that we can make a timely reallocation of any reserved funds that are not awarded by August 15, 2002.

Are There Any Differences in the Distribution of Fiscal Year 2002 IRR Program Funds as Compared to the Distributions of Fiscal Years 2000 and 2001 IRR Program Funds?

The distribution of fiscal year 2002 IRR Program funds is based on the current relative need formula and the FHWA Price Trends Report indices that were used for the adjusted fiscal years

2000 and 2001 distribution. In February 2000 the Secretary partially distributed fiscal year 2000 IRR Program funds using the relative need formula. In June 2000 the Secretary distributed the remaining funds under the relative need formula by modifying the FHWA price trend report indices for two non-reporting states, Washington and Alaska, that impact tribes in those non-reporting states. In January 2001 the Secretary partially distributed fiscal year 2001 IRR Program funds using the relative need formula. In June 2001 the Secretary distributed the remaining funds under the relative need formula by modifying the FHWA price trend report indices for two non-reporting states, Washington and Alaska, that impact tribes in those non-reporting states. We are using the same modification process for non-reporting states for distribution of fiscal year 2002 IRR Program funds. For fiscal year 2001 we distributed funds in the same manner as in fiscal year 2000, except that we reserved up to $19.53 million for administrative capacity building for federally recognized tribes. We are distributing fiscal year 2002 funds in the same way as fiscal year 2001 IRR Program funds.

Why Does This Temporary Rule Not Allow for Notice and Comment on the First Partial Distribution of Fiscal Year 2002 IRR Program Funds, and Why Is It Effective Immediately?

Under 5 U.S.C. 553(b)(3)(B), notice and public procedure on the first partial distribution under this rule are impracticable, unnecessary, and contrary to the public interest. In addition, we have good cause for making this temporary rule for distribution of 75 percent of fiscal year 2002 IRR Program funds effective immediately under 5 U.S.C. 553(d)(3). Notice and public procedure would be impracticable because of the urgent need to distribute 75 percent of fiscal year 2002 IRR Program funds. Approximately 1400 road and bridge construction projects are at various phases that require additional funds this fiscal year to continue or complete work, including 196 deficient bridges and the construction of approximately 600 miles of roads. Fiscal year 2002 IRR Program funds will be used to design, plan, and construct improvements (and, in some cases, to reconstruct bridges). Without this immediate partial distribution of fiscal year 2002 IRR Program funds, tribal and BIA IRR projects will be forced to cease activity, placing projects and jobs in jeopardy. Waiting for notice and comment on this temporary rule would be contrary to the public interest. In some of the BIA regions, approximately 80 percent of the roads in the IRR system (and the majority of the bridges) are designated school bus routes. Roads are essential access to schools, jobs, and medical services. Many of the priority tribal roads are also emergency evacuation routes and represent the only access to tribal lands. Two-thirds of the road miles in Indian country are unimproved roads. Deficient bridges and roads are health and safety hazards. Partially constructed road and bridge projects and deficient bridges and roads jeopardize the health and safety of the traveling public. Further, over 200 projects currently in progress are directly associated with environmental protection and preservation of historic and cultural properties. This temporary rule is going into effect immediately because of the urgent need for partially distributing fiscal year 2002 IRR Program funds to continue these construction projects.

Distribution of the remaining 25 percent of fiscal year 2002 IRR Program funds will be distributed under the same relative need formula as the first 75 percent of the funds after we review and consider comments.

Clarity of This Temporary Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this temporary rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the temporary rule clearly stated? (2) Does the temporary rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the temporary rule (grouping and order of sections, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the temporary rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the temporary rule? What else could we do to make the temporary rule easier to understand?

Regulatory Planning and Review (Executive Order 12866)

Under the criteria in Executive Order 12866, this temporary rule is a significant regulatory action requiring review by the Office of Management and Budget because it will have an annual effect of more than $100 million on the economy. The total amount available for distribution of fiscal year 2002 IRR Program funds is approximately $226 million and we are distributing approximately $169.5 million under this temporary rule. Congress has already appropriated these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR Program funds, especially under the relative need formula with which the tribal governments and tribal organizations and the BIA are already familiar, is negligible. The distribution of fiscal year 2002 IRR Program funds does not require tribal governments and tribal organizations to expend any of their own funds.

This temporary rule is consistent with the policies and practices that currently guide our distribution of IRR Program funds. This temporary rule continues to adopt the relative need formula that we have used since 1993, adjusting the FHWA Price Trends Report indices for states that do not have current data reports.

This temporary rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency. The FHWA has transferred the IRR Program funds to us and fully expects the BIA to distribute the funds according to a funding formula approved by the Secretary. This temporary rule does not alter the budgetary effects on any tribes from any previous or any future distribution of IRR Program funds and does not alter entitlement, grants, user fees, or loan programs or the rights or obligations of their recipients.

This temporary rule does not raise novel legal or policy issues. It is based on the relative need formula in use since 1993. We are changing determination of relative need only by appropriately modifying the FHWA Price Trend Report indices for states that did not report data for the FHWA Price Trends Report, just as we did for the distribution of fiscal year 2001 IRR Program funds.

Approximately 1400 road and bridge construction projects are at various phases that depend on this fiscal year's IRR Program funds. Leaving these ongoing projects unfunded will create undue hardship on tribes and tribal members. Lack of funding would also pose safety threats by leaving partially constructed road and bridge projects to jeopardize the health and safety of the traveling public. Thus, the benefits of this rule far outweigh the costs. This rule is consistent with the policies and practices that currently guide our distribution of IRR Program funds. This rule continues to adopt the relative need formula that we have used since 1993.

Regulatory Flexibility Act

A Regulatory Flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq. is not required for this

temporary rule because it applies only to tribal governments, which are not covered by the Act.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because it has an annual effect on the economy of $100 million or more. We are distributing approximately $169.5 million under this temporary rule. Congress has already appropriated these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR Program funds, especially under the relative need formula with which tribal governments, tribal organizations, and the BIA are already familiar, is negligible. The distribution of the IRR Program funds does not require tribal governments and tribal organizations to expend any of their own funds.

This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this rule will distribute Federal funds to Indian tribal governments and tribal organizations for transportation planning, road and bridge construction, and road improvements.

This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. In fact, actions under this rule will provide a beneficial effect on employment through funding for construction jobs.

Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*), this temporary rule will not significantly or uniquely affect small governments, or the private sector. A Small Government Agency Plan is not required.

This temporary rule will not produce a federal mandate that may result in an expenditure by State, local, or tribal governments of $100 million or greater in any year. The effect of this temporary rule is to immediately provide 75 percent of fiscal year 2002 IRR Program funds to tribal governments for ongoing IRR activities and construction projects.

Takings (Executive Order 12630)

With respect to Executive Order 12630, the rule does not have significant takings implications since it involves no transfer of title to any property. A takings implication assessment is not required.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment. This temporary rule should not affect the relationship between State and Federal governments because this rule concerns administration of a fund dedicated to IRR projects on or near Indian reservations that has no effect on Federal funding of state roads. Therefore, the rule has no Federalism effects within the meaning of Executive Order 13132.

Civil Justice Reform (Executive Order 12988)

This rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988. This rule contains no drafting errors or ambiguity and is clearly written to minimize litigation, provide clear standards, simplify procedures, and reduce burden. This rule does not preempt any statute. We are still pursuing the TEA–21 mandated negotiated rulemaking process to set up a permanent funding formula distributing IRR Program funds. The rule is not retroactive with respect to any funding from any previous fiscal year (or prospective to funding from any future fiscal year), but applies only to 75 percent of fiscal year 2002 IRR Program funding.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose record keeping or information collection requirements or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq*. We already have all of the necessary information to implement this rule.

National Environmental Policy Act

This rule is categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, because its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and the road projects funded as a result of this rule will be subject later to the National Environmental Policy Act process, either collectively or case-by-case. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

Government-to-Government Relationship With Tribes

Under the President's memorandum of May 14, 1998, Consultation and Coordination with Indian Tribal Governments (63 FR 27655) and 512 DM 2, we have evaluated any potential effects upon federally recognized Indian tribes and have determined that this rule preserves the integrity and consistency of the relative need formula process we have used since 1993. The only changes we are making from previous years (which we also made for fiscal years 2000 and 2001) IRR Program funds are to modify the FHWA Price Trends Report indices for non-reporting states which do not have current price trends data reports. The yearly FHWA Report is used as part of the process to determine the cost-to-improve portion of the relative need formula. Consultation with tribal governments and tribal organizations is ongoing as part of the TEA–21 negotiated rulemaking process and this distribution uses the TEA–21 Negotiated Rulemaking Committee's tribal caucus recommendation.

List of Subjects in 25 CFR Part 170

Highways and Roads, Indians—lands.

For the reasons set out in the preamble, we are amending Part 170 in Chapter I of Title 25 of the Code of Federal Regulations as follows.

PART 170—ROADS OF THE BUREAU OF INDIAN AFFAIRS

1. The authority citation for part 170 continues to read as follows:

Authority: 36 Stat. 861; 78 Stat. 241, 253, 257; 45 Stat. 750 (25 U.S.C. 47; 42 U.S.C. 2000e(b), 2000e–2(i); 23 U.S.C. 101(a), 202, 204), unless otherwise noted.

2. Effective January 10, 2002, through September 30, 2002, add § 170.4b to read as follows:

§ 170.4b What formula will BIA use to distribute 75 percent of fiscal year 2002 Indian Reservation Roads funds?

On January 10, 2002, we will distribute 75 percent of fiscal year 2002 IRR Program funds authorized under Section 1115 of the Transportation Equity Act for the 21st Century, Public Law 105–178, 112 Stat. 154. We will distribute the funds to Indian Reservation Roads projects on or near Indian reservations using the relative need formula established and approved in January 1993. We are modifying the formula to account for non-reporting States by inserting the latest data

reported for those States for use in the relative need formula process.

Dated: December 19, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–268 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–LY–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, 63, 72, and 75

[FRL–7127–4]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and correction to November 15, 2001 Notice of Availability.

SUMMARY: This document announces the availability of applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS)(40 CFR part 60), and the National Emission Standards for Hazardous Air Pollutants (NESHAP)(40 CFR parts 61 and 63). This document also corrects and clarifies the Notice of Availability published in the **Federal Register** on November 15, 2001 (66 FR 57453).

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the ADI at: *http://es.epa.gov/oeca/eptdd/adi.html*. The document may be located by date, author, subpart, or subject search. For questions about the ADI or this document, contact Maria Malave at EPA by phone at: (202) 564–7027, or by e-mail at: *malave.maria@epa.gov*. For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions to the NSPS in 40 CFR part 60 and the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed applicability determinations. See 40 CFR 60.5 and 61.06. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are broadly termed alternative monitoring decisions. Further, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are broadly termed regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 42 such documents added to the ADI on October 19, 2001. The subject, author, recipient, and date (header) of each letter and memorandum is listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI at *http://es.epa.gov/oeca/eptdd/adi.html*.

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on October 19, 2001; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter. We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents.

Correction to November 15, 2001 Notice of Availability

The previous Notice of Availability was published at 66 FR 57453 under the heading ''Recent Posting of Agency Regulatory Interpretations Pertaining to Applicability and Monitoring for Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants to the Applicability Determination Index (ADI) Database System.'' EPA mistakenly included in that notice the statement that ''Comments on any of the documents posted on the ADI database system must be submitted on or before January 14, 2002.'' Please disregard that statement and all associated statements regarding the submission of comments. EPA is not seeking comments on the documents listed in that notice, nor is it seeking comments on any of the documents contained in the ADI database.

EPA notes further that although the November 15, 2001 notice, and this notice, are sufficient to satisfy the publication provisions of 5 U.S.C. 552(a) and 42 U.S.C. 7607(b), the references to those provisions were done by mistake, and were not intended to imply that all of the documents posted on the ADI database fall within the scope of those statutory provisions. Although some of the documents on the ADI database are within the scope of those provisions, others are not, and for this reason, EPA does not refer to those provisions when the Agency publishes a quarterly Notice of Availability of the ADI database.

ADI DETERMINATIONS UPLOADED ON OCTOBER 19, 2001

Control No.	Category	Subpart	Title
M010018	MACT	MMM	Subpart MMM Applicability to Creosote Production Facilities.

ADI DETERMINATIONS UPLOADED ON OCTOBER 19, 2001—Continued

Control No.	Category	Subpart	Title
M010021	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010019	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010020	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010022	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010023	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010024	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010025	MACT	I	NESHAP for Organic HAPs for Certain Processes.
M010026	MACT	LLL	Testing to Determine Area or Major Source Status.
M010027	MACT	A,RRR	Extension to Conduct Initial Performance Testing.
M010028	MACT	S	Alternative Closed Collection and Vent System Monitoring.
M010029	MACT	CC	Existing Refinery Storage Vessels Exempt from Refinery MACT.
M010030	MACT	CC,R	Operating Parameter Monitoring Request.
M010031	MACT	CC,R	Operating Parameter Monitoring Request.
M010032	MACT	S	Alternative Monitoring Protocol for Bleach Plant Scrubber.
M010033	MACT	G,H,VV	Waiver of Flare Performance Test.
M010034	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010035	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010036	MACT	S	Pulp and Paper MACT Alternative Monitoring.
0100053	NSPS	GG	Custom Fuel Monitoring Schedule.
0100054	NSPS	GG	Alternative Test Methods Under Subpart GG.
0100055	NSPS	Dc	Boiler Derate Proposal.
0100056	NSPS	J	7-Day Trial for Burning Refinery Fuel Gas in Boiler.
0100057	NSPS	Dc	Applicability to Process Heaters.
0100058	NSPS	QQQ	Definition of Oil-water Separator.
0100059	NSPS	OOO	Replacement Equipment Exemption—New Production Line.
0100060	NSPS	QQQ	Alternative Testing Procedure for Oil-water Separator.
0100061	NSPS	SS	Applicability to Clothing Press Production Line.
0100062	NSPS	OOO,A	Replacement of Equipment and Notification Requirements.
0100063	NSPS	CCCC	Applicability to Wood By-product Combustor.
0100065	NSPS	GG	Subpart GG Custom Fuel Monitoring Schedule.
0100066	NSPS	GG,A,Da	Alternate Emission Standard and Monitoring, and Initial Performance Test.
0100067	NSPS	GG	Use of Part 75 for Alternate Monitoring under Subpart GG.
0100068	NSPS	GG	Use of Part 75 for Alternate Monitoring under Subpart GG.
0100069	NSPS	GG	Alternate Test Method/Waiver of Initial Performance Test.
0100070	NSPS	GG	Proposal to Use New Monitor for Subpart GG.
0100071	NSPS	GG	Use of Part 75 for Alternate Monitoring under Subpart GG.
0100072	NSPS	GG	Subpart GG Alternate Test Method/Initial Performance Test.
0100073	NSPS	VV	Waiver of Flare Performance Test.
0100074	NSPS	GG	Custom Fuel Monitoring Schedule.
0100075	NSPS	GG	Custom Fuel Monitoring Schedule.
0100076	NSPS	NNN,RRR	Applicability of NSPS to Ethanol Manufacturing Plants.

Abstracts

Abstract for (M010018)

Q1: Are creosote blend tanks subject to the storage vessel standards or the process vent standards of subpart MMM?

A1: Based on our review of the rule as currently drafted, the creosote blend tanks are subject to process vent standards.

Q2: Are coal tar and naphthalene distillation processes upstream of the creosote blend tanks pesticide active ingredient process units subject to the rule?

A2: Upstream distillation units are not pesticide active ingredient process units and therefore not part of the affected source subject to the rule.

Abstract for (010019)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO_2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010020)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP (40 CFR part 63, subpart S),'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8–10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (010021)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated

back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO_2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010022)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP (40 CFR part 63, subpart S),'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8–10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (010023)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO_2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010024)

Q: May a facility which is subject to the monitoring and inspection procedures for closed collection and vent systems found at 40 CFR 63.443(c), 63.453(k) and (l) of the pulp and paper MACT, subpart S, request approval for alternative provisions for inspection, monitoring of closed collection and vent systems?

A: Yes. The requested alternatives are consistent with requirements in other existing standards, such as the Hazardous Organic National Emission Standards for Hazardous Air Pollutants.

Abstract for (010025)

Q: A facility operates a toner process in which a styrene-butadiene rubber copolymer is manufactured; however, the affected equipment has not operated in hazardous air pollutant (HAP) service for greater than 300 operating hours per year. Is the facility subject to subpart I?

A: No. EPA has determined that the toner process described meets the definition of styrene-butadiene rubber production. However, because the facility has not operated the affected equipment in HAP service greater than 300 operating hours per year, the equipment is not subject to subpart I.

Abstract for (010026)

Q: Does the portland cement MACT require the facility in question to conduct performance tests to determine its status as an area or major source?

A: No, testing is not required. With its current emission profile, the facility is an area source.

Abstract for (010027)

Q: May the deadline by which a performance test for a secondary aluminum processing unit is conducted be extended beyond 180 days of the initial startup?

A: No. The general provisions at 40 CFR 63.7 allow for the rescheduling of testing, but they do not allow testing to be scheduled beyond 180 days of the initial startup if the initial startup date is after the effective date of the relevant standard.

Abstract for (010028)

Q: May a facility conduct closed vent system inspections once a month, rather than once every 30 days as required by 40 CFR 63.453(k)?

A: Yes. The facility may conduct closed vent system inspections once during the calendar month as long as at least 21 days elapse between inspections.

Abstract for (010029)

Q: Are 45 existing storage vessels at the Koch refinery in Pine Bend, Minnesota subject to the refinery MACT?

A: No. The vessels must meet 40 CFR part 60, subpart Kb. The storage vessel provisions in the refinery MACT are very similar to those in subpart Kb. A 1992 Prevention of Significant Deterioration (PSD) permit required Koch to comply with subpart Kb, and the State issued the PSD permit before EPA proposed the refinery MACT.

Abstract for (010030)

Q: Will EPA approve the selected operating parameter and its value for continuous monitoring at the Track 8 rail loading rack at the Koch refinery in Pine Bend, Minnesota?

A: Yes. The flare demonstrated compliance with the standards in 40 CFR 63.11(b). The presence of a pilot light will adequately demonstrate compliance with the emission standard in 40 CFR 63.422(b).

Q: Will EPA approve the selected operating parameter and its value for continuous monitoring at the tank truck bottom loading rack at the Koch refinery?

A: No. Reporting on a single operating parameter, the total volatile organic compound (VOC) concentration at the vapor recovery unit outlet, does not account for the effects of temperature, barometric pressure, volumetric flow, and rate of gasoline loading.

Abstract for (010031)

Q: Will EPA approve the selected operating parameter for continuous monitoring and the parameter's value for the tank truck bottom loading rack at the Koch refinery in Pine Bend, Minnesota?

A: Yes. Additional data shows that a total VOC concentration of 2350 ppmv as a 6-hour average at the vapor recovery unit outlet will demonstrate compliance with the emission standard at 40 CFR 63.422(b).

Abstract for (010032)

Q: Will EPA approve an alternative monitoring method for the Mead, Chillicothe, Ohio paper mill that uses on/off status as an operational parameter indicating the operating status of the fan used to convey gases to the bleach plant scrubber?

A: Yes. Graphs indicating the operating status of the fan will be used to monitor and record the on/off status. The performance test must show compliance with the fan operating at maximum speed.

Abstract for (010033)

Q: May the BP Chemicals facility waive the requirement to conduct initial performance testing of the Butanediol Plant flare?

A: No. BP Chemicals cannot waive the requirement to conduct initial performance testing of the Butanediol Plant flare. Current methods for initial performance testing of flares are applicable to BP Chemicals.

Abstract for (010034)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for Subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP,

(40 CFR part 63, subpart S),'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8 through 10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (010035)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010036)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for Subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP 40 CFR part 63, subpart S,'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8 through 10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (100053)

Q: Will EPA approve a custom fuel monitoring schedule under Subpart GG for a facility whose turbines combust only pipeline-quality natural gas?

A: Yes. Because the turbines combust only pipeline-quality natural gas fuel, EPA will approve the custom fuel monitoring schedule according to established EPA National Policy.

Abstract for (0100054)

Q: Will EPA approve alternative test methods under Subpart GG and the waiver of various other test requirements for the three new gas turbines to be installed at Conectiv's Hay Road Power Complex in Wilmington, Delaware?

A: EPA will approve some of the alternative testing methods but not all of them as the State of Delaware is requiring strict NSPS testing compliance through their own permitting authority.

Abstract for (100055)

Q: Will EPA approve a boiler deration proposal under Subpart Dc?

A: EPA will approve a boiler deration proposal that meets federal policy on being a permanent change to the steam output capacity of the boiler which cannot be easily reversed.

Abstract for (0100056)

Q: May a facility operate its new Wickes boiler on refinery fuel gas for a 7 day trial period prior to installing a continuous emission monitor (CEM) for sulfur dioxide?

A: Yes, EPA will allow this short trial period for selecting the correct CEM and ensuring proper boiler operation on the waste gas fuel. This is with the understanding that the facility will be sampling and analyzing the waste gas fuel for H_2S content every 4 hours during the trial period.

Abstract for (0100057)

Q: Two natural gas fired heaters are used to heat $TiCl_4$ and pure oxygen prior to being reacted. Are the two heaters subject to subpart Dc?

A: No. The subpart Dc affected facility is identified as a steam generating unit. Since the definition of a steam generating unit excludes process heaters, the two heaters are not subject to subpart Dc.

Abstract for (0100058)

Q: Two tanks which are subject to NSPS subpart Kb serve primarily as surge and equalization tanks and separate oil and water as an incidental function. Are the two tanks considered storage vessels or oil-water separator tanks, and are they exempt from 40 CFR 60.692 and 60.693?

A: The two tanks are considered storage vessels under subpart QQQ rather than oil-water separator tanks. Since the two tanks are subject to the standards specified at 40 CFR 60.112b, subpart Kb, they are not regulated by subpart QQQ due to the exemption provided in 40 CFR 60.692 through 60.693(d).

Abstract for (0100059)

Q: A new production line is being constructed at a nonmetallic mineral processing plant which will include affected facilities constructed after the subpart OOO applicability date and a crusher which was constructed prior to the applicability date. Will any of the affected facilities be subject to subpart OOO prior to the modification or reconstruction of the crusher?

A: Yes. All affected facilities in the production line would be subject to subpart OOO except for the crusher. The exemption provided in 40 CFR 60.670(d)(1) only applies to the replacement of an existing facility with equipment of equal or smaller size having the same function as the existing facility. The use of a crusher which was constructed prior to the applicability date would not cause all other affected facilities in the new production line to be exempt under 40 CFR 60.670(d).

Abstract for (0100060)

Q: A double seal, internal floating roof is being used on an oil-water separator to comply with the standard provided in 40 CFR 60.692 through 60.693. Is the subpart Ka testing (inspection) standard acceptable as an alternative to the subpart QQQ inspection procedures?

A: No. Since subpart Ka does not require any type of periodic inspections for internal floating roofs, the proposal is not appropriate. However, the use of subpart Kb inspection procedures for internal floating roofs provided in 40 CFR 60.113b(a) would be acceptable.

Abstract for (0100061)

Q: Does NSPS, subpart SS, apply to surface coating operations used to paint clothing press parts and the surface of the clothing presses?

A: No. The subpart SS affected facility is each surface coating operation in a large appliance surface coating line. Since a clothing press is not identified in subpart SS as a large appliance product, the surface coating of clothing presses is not regulated.

Abstract for (0100062)

Q: Is a piece of equipment which is covered by the exemption in 40 CFR 60.670(d)(1) considered an affected facility which is subject to the notification requirements of 40 CFR 60.7?

A: Yes. When a piece of equipment is replaced with equipment of equal or smaller size, the replacement equipment is an affected facility subject to subpart OOO, even though the exemption in 40 CFR 60.670(d) may apply.

Abstract for (0100063)

Q: Is a wood by-product combustor subject to the Commercial and Industrial Solid Waste Incineration NSPS, subpart CCCC?

A: No. Because the wood by-product combustor has heat recovery that is used

to heat the ventilation make-up air, and the combustor is only operated during the cold winter months when this heat is needed, it is not subject NSPS, subpart CCCC.

Abstract for (0100064)

Q: May the El Paso Company obtain a relaxed sulfur-in-fuel monitoring schedule under 40 CFR part 60, subpart GG, for the operation of a 70 MMBtu/hr compressor station operating solely on natural gas?

A: Yes. EPA routinely grants custom monitoring schedules under NSPS, subpart GG, for facilities burning low sulfur fuels.

Abstract for (0100065)

Question: May the UAE Lowell LLC facility obtain a relaxed sulfur-in-fuel monitoring schedule under 40 CFR part 60, subpart GG for the operation of a 90 MW stationary gas turbine with a primary fuel of natural gas and a secondary fuel of very-low sulfur distillate oil?

Answer: Yes, EPA routinely grants custom monitoring schedules under NSPS, subpart GG for facilities burning low sulfur fuels.

Abstract for (0100066)

Q1: May the Ameren facility demonstrate compliance with 40 CFR part 60, subpart GG using the allowable NO_X emission rate in 40 CFR part 60, subpart Da (1.6 lb/MW-hr) as a limit on each entire combined cycle turbine?

A1: Yes. Ameren may use the more stringent emission limit of 1.6 lb/MW-hr NO_X at 40 CFR part 60, subpart Da on the entire combined cycle turbine in lieu of monitoring separately under 40 CFR part 60, subpart Da and 40 CFR part 60, subpart GG.

Q2: May the Ameren facility receive a waiver of the initial performance testing for NO_X at 40 CFR part 60, subpart GG?

A2: No. Ameren may not waive the initial performance testing required by 40 CFR part 60, subpart GG. However, U.S. EPA does waive the requirement to test at all four loads.

Q3: May the Ameren facility use NO_X CEMs for demonstrating compliance with 40 CFR part 60, subpart GG in lieu of fuel nitrogen monitoring?

A3. Yes. Ameren may use NO_X CEMs to demonstrate compliance with 40 CFR part 60, subpart GG in lieu of fuel nitrogen monitoring.

Abstract for (0100067)

Q1: May the Cascade Creek facility use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG?

A1: Yes. Cascade Creek may use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG. This approval is based on certain conditions outlined in the approval letter.

Q2: May the Cascade Creek facility use RATA test data obtained during CEM certification, as required by 40 CFR part 75, to demonstrate initial compliance with NO_X limits at 40 CFR part 60, subpart GG in lieu of fuel monitoring for nitrogen content?

A2: Yes. Cascade Creek may use RATA data to demonstrate initial compliance with 40 CFR part 60, subpart GG.

Q3: May the Cascade Creek facility use fuel monitoring requirements for natural gas and number 2 fuel oil at 40 CFR part 75, appendix D in lieu of fuel monitoring required by 40 CFR part 60, subpart GG?

A3: Yes. Cascade Creek may use fuel monitoring requirements for natural gas and number 2 fuel oil at 40 CFR part 75, appendix D in lieu of fuel monitoring required by 40 CFR part 60, subpart GG?

Abstract for (0100068)

Q1: May the City of Chaska use newer ASTM methods for fuel sulfur content monitoring at 40 CFR part 75 at the Minnesota Municipal Power Agency's Minnesota River Station when burning fuel oil, in lieu of methods ASTM at 40 CFR part 60, subpart GG?

A1: Yes. The City of Chaska may use newer ASTM methods given in 40 CFR part 75 for determining sulfur content of fuel when fuel oil is burned.

Q2: May the City of Chaska use a correlation graph developed in accordance with 40 CFR part 75, appendix E, to determine compliance with NO_X emission limits at the Minnesota Municipal Power Agency's Minnesota River Station when burning fuel oil, in lieu of methods at 40 CFR part 60, subpart GG?

A2: Yes. The City of Chaska may use a correlation graph developed in accordance with 40 CFR part 75, appendix E when burning either fuel oil or pipeline natural gas in lieu of methods at 40 CFR part 60, subpart GG. This approval is granted only if the turbines using the turbines are peaking units as defined at 40 CFR 72.2.

Q3: May the City of Chaska use the default value of 0.0006 pounds of sulfur per million BTU of heat input and monitor the amount of natural gas burned to determine sulfur emissions in accordance with 40 CFR part 75 at the Minnesota Municipal Power Agency's Minnesota River Station when burning pipeline natural gas, in lieu of sulfur monitoring at 40 CFR part 60, subpart GG?

A3: Yes. The City of Chaska may use the default value of 0.0006 pounds of sulfur per million BTU of heat input and monitor the amount of natural gas burned to determine sulfur emissions in accordance with 40 CFR part 75 in lieu of sulfur monitoring at 40 CFR part 60, subpart GG. This approval is acceptable only when pipeline natural gas is being burned as fuel in the turbines.

Abstract for (0100069)

Q1: May the Lakefield Junction facility use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG?

A1: Yes. Lakefield Junction may use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG. This approval is based on certain conditions outlined in the approval letter.

Q2: May the Lakefield Junction facility use the custom monitoring schedule for sulfur content in fuel as outlined in the August 14, 1987 memorandum from John Rasnic for the six turbines being installed and all future turbines installed?

A2: Yes. Lakefield Junction may use the custom monitoring schedule for sulfur content for the six turbines being installed. This approval is not extended to all future turbines which may be installed. Future turbine installation will require a new determination request be made by the facility.

Q3: May the Lakefield Junction facility use CEM certification data required by 40 CFR part 75 to demonstrate initial compliance in lieu of Reference Method 20?

A3: U.S. EPA Region 5 has not been delegated authority to approve alternative test methods as proposed by Lakefield Junction. The Regional Office is, however, delegated authority to waive initial performance tests when compliance has been demonstrated by other means. U.S. EPA Region 5 does, therefore, waive the initial performance test requirements for NO_X under 40 CFR part 60, subpart GG. This waiver is approved only if certain conditions are met.

Q4: Will U.S. EPA Region 5 rescind the determination made in a letter dated September 8, 1999 addressed to MPCA?

A4: Yes. U.S. EPA Region 5 rescinds the determination made for Lakefield Junction, through MPCA, on September 8, 1999.

Abstract for (0100070):

Q: May the Northern Natural Gas Company and Northern Border Pipeline Company use a new monitor for

determining sulfur content in fuel for demonstrating compliance with 40 CFR part 60, subpart GG?

A: No determination was made. Additional information is necessary to clarify the facility's requests.

Abstract for (0100071):

Q1: May the DP&L facility use NO_X CEMs for in lieu of fuel monitoring requirements for nitrogen given at 40 CFR part 60, subpart GG?

A1: Yes. DP&L may use CEMs as required by the acid rain program to demonstrate compliance with NO_X limits in 40 CFR part 60, subpart GG. This approval is granted so long as listed conditions are met.

Q2: May the DP&L facility get a waiver of the requirements to correct NO_X CEM emission data to ISO conditions?

A2: Yes. DP&L may waive the requirement to convert results to ISO conditions, so long as all data necessary for the conversion is still maintained.

Q3: May the DP&L facility use RATA results obtained during certification of the NO_X CEMs to demonstrate initial compliance with 40 CFR part 60, subpart GG?

A3: Yes. DP&L may use RATA results to demonstrate initial compliance with NO_X limits for NSPS subpart GG so long as certain conditions are met.

Q4: May the DP&L facility use fuel monitoring provisions for sulfur at 40 CFR part 75, in lieu of fuel monitoring provisions for sulfur given at 40 CFR part 60, subpart GG?

A4: Yes. DP&L may use monitoring provisions at 40 CFR part 75 for sulfur content in fuel in lieu of fuel monitoring requirements given at 40 CFR part 60, subpart GG.

Abstract for (0100072)

Q1: May the DP&L facility conduct initial performance testing of all turbines identified at base load only?

A1: Yes. DP&L may conduct initial performance testing at base load if certain conditions are met.

Q2: May DP&L use Method 7E in lieu of Method 20 for demonstrating initial compliance with NOX for NSPS subpart GG?

A2: Yes. DP&L may use Method 7E to demonstrate initial compliance with NSPS subpart GG. This approval was granted by the Emissions, Monitoring and Analysis Division in the Office of Air Quality Planning and Standards, in a memorandum to George Czerniak.

Abstract for (0100073)

Q: May the BP Chemicals facility waive the requirement to conduct initial performance testing of the Butanediol Plant flare?

A: No. BP Chemicals cannot waive the requirement to conduct initial performance testing of the Butanediol Plant flare. Current methods for initial performance testing of flares are applicable to BP Chemicals.

Abstract for (0100074)

Q: Will EPA Region III approve a custom fuel monitoring schedule for sulfur content under 40 CFR part 60, subpart GG?

A: Yes. EPA has National Policy in regard to fuel sampling and analysis for sulfur content under subpart GG for stationary gas turbines that combust pipeline-quality natural gas fuel.

Abstract for (0100075)

Q: Will EPA Region III approve a custom fuel monitoring schedule for Wolf Hills Energy Under 40 CFR part 60, subpart GG?

A: Yes. Because the request meets the conditions of EPA's National Policy on such schedules, EPA Region III will approve the request.

Abstract for (0100076)

Q: Are ethanol manufacturing facilities exempt from the requirements of 40 CFR part 60, subparts RRR and NNN?

A: Yes. EPA has previously determined that ethanol manufacturing facilities may be exempt from NSPS, subparts RRR and NNN, on a case-by-case basis. In this instance, the ethanol facilities in question use a biological process to ferment the converted starches in corn into ethanol. These subparts did not envision unit operations for biological processes.

Dated: January 4, 2002.

Lisa C. Lund,

Acting Director, Office of Compliance.

[FR Doc. 02–624 Filed 1–9–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001128334–1313–06; I.D. 092101B]

RIN 0648–AN88

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations that implement the Atlantic Large Whale Take Reduction Plan (ALWTRP) to provide further protection for large whales, with an emphasis on protective measures to benefit North Atlantic right whales. This final rule expands gear modifications required by the December 2000 interim final rule to the Mid-Atlantic and Offshore lobster waters and modifies requirements for gillnet gear in the mid-Atlantic.

DATES: This final rule is effective February 11, 2002.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Final Regulatory Flexibility Analysis (FRFA), are available from the Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298. Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, progress reports on implementation of the ALWTRP, and a table of the changes to the ALWTRP may be obtained by writing to Diane Borggaard at the address above or Katherine Wang, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432. Copies of the EA, the RIR, and the FRFA can be obtained from the ALWTRP website listed under the Electronic Access portion of this document.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS, Northeast Region, 978–281–9145; Katherine Wang, NMFS, Southeast Region, 727–570–5312; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for this final rule and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/*. Copies of the most recent marine mammal Stock Assessment Reports may be obtained by writing to Richard Merrick,

NMFS, 166 Water St., Woods Hole, MA 02543 or can be downloaded from the Internet at *http://www.nmfs.noaa.gov/prot_res/mammals/sa_rep/sar.html*. Information on disentanglement events is available on the web page of NMFS' whale disentanglement contractor, the Center for Coastal Studies, *http://www.coastalstudies.org/*.

Background

This final rule implements approved modifications contained in the ALWTRP recommended by the ALWTRT, as well as other modifications deemed necessary by NMFS to satisfy requirements of the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Details concerning the justification for and development of this rule were provided in the preamble to the proposed rule (66 FR 49896, October 1, 2001) and are not repeated here.

Changes to the ALWTRP for Lobster Trap Gear

Northern Inshore State Lobster Waters Area

This final rule removes the option for lobstermen to use line with a diameter of 7/16 in (1.11 cm) or less for all buoy line, effective January 1, 2003, from the Lobster Take Reduction Technology List applicable to fishing with lobster traps in this area, and it allows the use of neutrally buoyant line in all buoy lines and ground lines as an option to be chosen from that list.

Southern Nearshore Lobster Waters Area

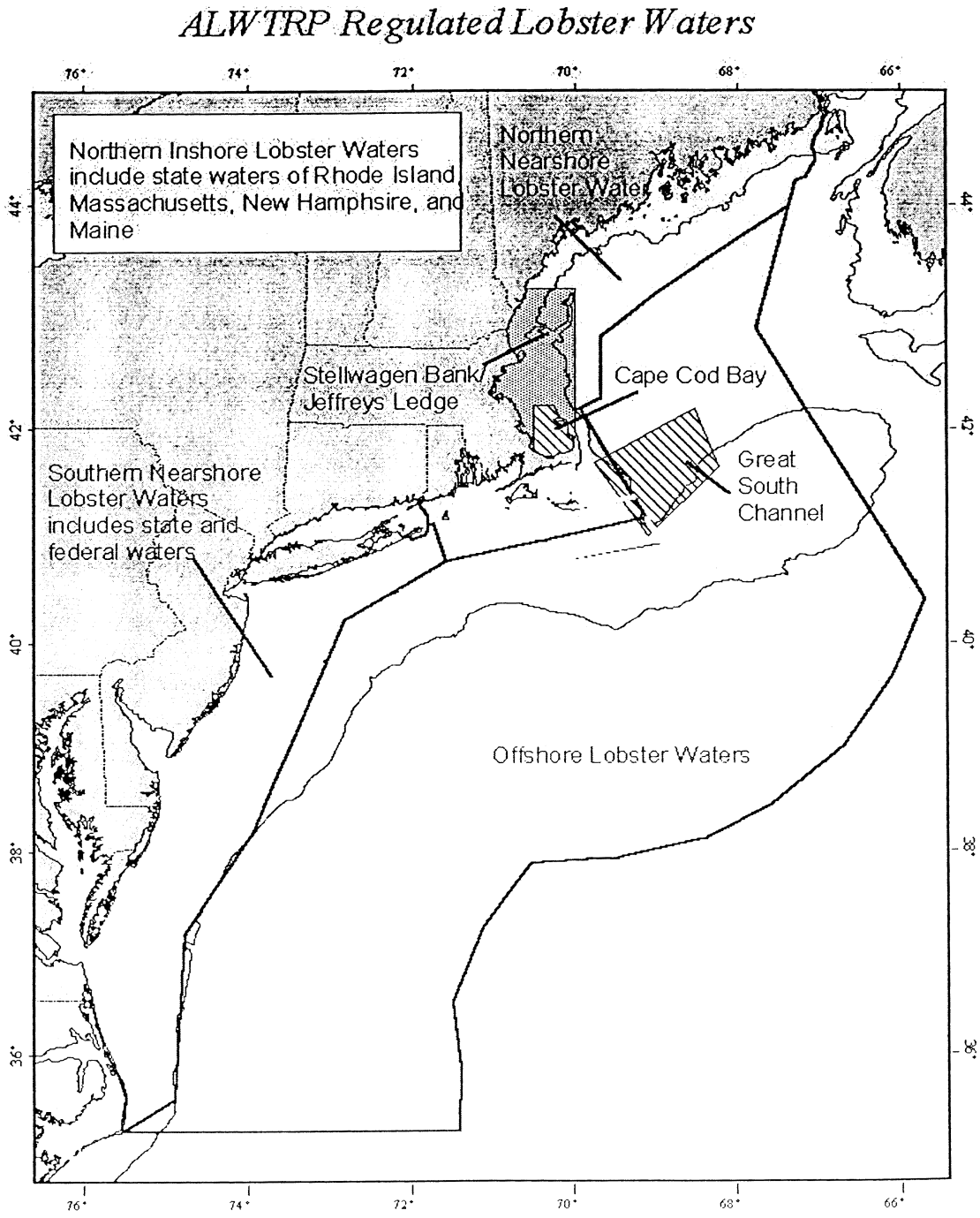
This final rule replaces the Lobster Gear Technology List with the following mandatory gear modifications applicable year-round: (a) installation of a weak link with a maximum breaking strength of 600 lb (272.4 kg) on the buoy line, and (b) installation of weak links in such a way that produces knotless ends if the weak link breaks.

Offshore Lobster Waters Area

This final rule reduces the maximum breaking strength of weak links at all buoys from 3,780 lb (1,714.3 kg) to 2,000 lb (906.9 kg), and requires installation of weak links in such a way that produces knotless ends if the weak link breaks.

BILLING CODE 3510–22–P

Figure 1



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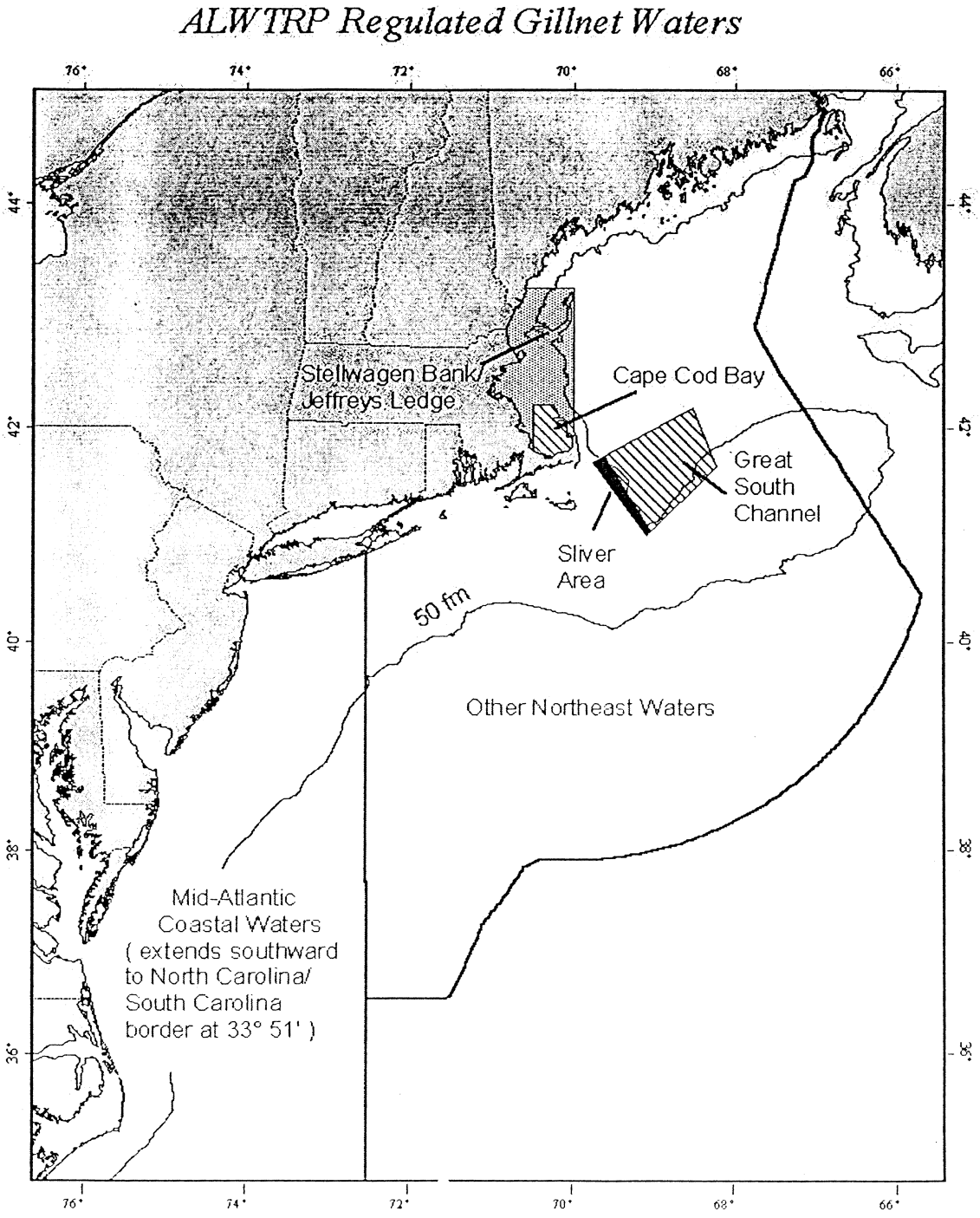
Changes to the ALWTRP for Gillnet Gear

Gillnet Mid-Atlantic Coastal Waters Area

This final rule replaces the Gillnet Take Reduction Technology List with requirements to install buoy line weak links with a maximum breaking strength of 1,100 lb (498.8 kg) placed as close to each individual buoy as operationally feasible and net panel weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline section on each 50-fathom net panel or every 25 fathoms on the floatline for longer panels. It also requires fishers to return all gillnet gear to port with their vessels, or if the gillnets are left at sea to continue fishing, to secure the nets on each end with anchors that have the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor.

Figure 2



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Changes to the Take Reduction Technology Lists

Lobster Take Reduction Technology List

This final rule removes the option for fishers to use 7/16 in (1.11 cm) diameter line for all buoy lines, effective January 1, 2003, and amends the list to provide the option that all buoy lines and ground lines be composed entirely of sinking and/or neutrally buoyant line. For the Southern Nearshore Lobster Waters Area, this final rule replaces the requirement to choose options from the Lobster Take Reduction Technology List with a set of specific requirements.

Gillnet Take Reduction Technology List

This final rule removes the option for fishers to use line of 7/16 in (1.11 cm) in diameter or less for all buoy lines, requires installation of weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline of each net panel, and requires that all buoy lines be composed entirely of sinking and/or neutrally buoyant line.

Voluntary Measures

NMFS continues to encourage fishers to use and maintain knot-free buoy lines. As described in the preamble to the proposed rule, the ALWTRT initially recommended requiring knot-free buoy lines, but changed the recommendation from a mandatory measure to a voluntary measure because fishers need to repair and re-tie buoy lines frequently at sea. The knot-free buoy line concept is similar to the breakaway buoy concept, where the objective is to keep knots from becoming lodged in a whale's baleen or from contributing to the wrapping of line around an appendage.

In some cases, fishers prefer splices to knots, because splices are stronger. NMFS is recommending the use of splices wherever possible, because splices are not likely to increase entanglement threat. However, NMFS recognizes that connecting lines using a splice may not be practicable while gear is being hauled. NMFS encourages the splicing of line, as opposed to knot-tying, especially during seasonal gear overhauls or as new gear is added. Although concepts for devices to join lines quickly at sea have been proposed, none have been developed yet; therefore, there is currently no feasible way to join lines quickly other than knotting. NMFS will continue to investigate line connecting alternatives and may require further use of knotless lines in the future if a reasonable substitute for knots is developed.

Comments and Responses

NMFS received 23 sets of written comments on the proposed rule by the October 31, 2001 deadline. The comments were considered in developing this final rule to amend the regulations that implement the ALWTRP and are responded to here.

General Comments

Comment 1: Two commenters generally opposed the gear regulations, one of which noted that the regulations were too restrictive and costly. Four commenters generally believed that the regulations were not restrictive enough; all noted that other options exist that have a greater potential to reduce risk of serious injury and mortality to large whales. Seven commenters generally supported the new rule changes. One commenter expressed support because the proposed rule reflects the ALWTRT recommendations, and another because they were based on reasonable and tested gear modifications.

Response: NMFS is amending the regulations that implement the ALWTRP to provide further protection for large whales, with an emphasis on North Atlantic right whales due to their critical status. NMFS takes the economics of the fisheries into consideration, to the extent possible, when developing marine mammal protective measures that meet the standards of the MMPA and ESA. NMFS seeks recommendations from the ALWTRT, and considers these along with the best available information on gear and large whale entanglements when developing ALWTRP regulations.

Comment 2: Eight commenters noted other sources or potential sources of right whale mortality, such as recreational boaters, commercial shipping vessels, whale watch vessels, other fishing gear aside from lobster and gillnet gear that has vertical line in the water column or is configured in a way that poses a potential threat to right whales, and gear employed by foreign fishing vessels. Four commenters noted that NMFS was implementing significant modifications to fishing gear and practices of the lobster and gillnet fisheries without providing adequate protection to right whales from other sources of mortality. One of these commenters expressed concern that right whale mortality due to fishing is the smallest source of right whale mortality, but NMFS focuses on it because it is the easiest to manipulate.

Response: This final rule stems from a component of the Reasonable and Prudent Alternative (RPA) resulting from consultations required under section 7 of the ESA. NMFS issued four BOs on the monkfish, spiny dogfish, multispecies Fishery Management Plans (FMPs)and lobster Federal regulations on June 14, 2001. NMFS is issuing this final rule specifically to address commercial fishery impacts from these four fisheries. In addition, under the MMPA, NMFS must reduce incidental mortality and serious injury of marine mammals resulting from interaction with commercial fishing gear. NMFS appreciates the gillnet and lobster fishing industries' involvement in the ALWTRT and their efforts to reduce takes of marine mammals in their fisheries. NMFS realizes that other marine resource user groups, including other fisheries with gear with vertical lines, are affecting large whale populations, and NMFS will continue efforts to try to reduce these impacts.

NMFS is currently addressing other sources of right whale mortality through other rulemaking processes and policy discussions. NMFS issued a contract for the completion of a report that made recommendations to decrease ship strikes. The Northeast and Southeast Recovery Plan Implementation Teams, composed of members from various marine stakeholders, including the U.S. Navy and port authority representatives, have been advising NMFS on ways to address impacts from recreational and commercial vessels. NMFS is taking these recommendations under consideration and is working to minimize the potential for vessel collisions. NMFS is also working on a proposed rule to minimize the potential for future serious injury and mortality of whales from whale watch vessels. NMFS is continuing to work with Canadian biologists and to support efforts to expand disentanglement efforts in Canadian waters. NMFS will continue to work with the Government of Canada toward development of similar protective measures for right whales in Canadian waters.

Comment 3: One commenter noted that NMFS should include through the Take Reduction Team (TRT) process all other fishing gear types that pose a potential threat to the right whale because of the use of a vertical line in the water column or the configuration of the gear itself. This commenter urged NMFS to work with states and Fishery Management Councils (FMC) to obtain further information on these fisheries as well as other experimental fishery permits that might potentially use a vertical buoy line. Another commenter recommended that NMFS consider including other regulated fixed gears that use buoy lines, and gear types that have a configuration that poses a

potential threat to right whales in these regulations because unidentified gear or line has been involved in whale entanglements. NMFS should give a rationale for gear determined to be exempt from such measures.

Response: At the next ALWTRT meeting, NMFS would like to discuss this with ALWTRT members and to obtain recommendations on which fisheries to bring into the take reduction team process and which fisheries to exempt. Currently, state representatives and council members have been invited to participate as members of the NMFS take reduction teams. Through its involvement, NMFS can utilize its expertise and obtain further information on additional fisheries and experiments that may potentially use a vertical buoy line. NMFS also participates in FMC and Atlantic States Marine Fisheries Commission's protected species committees/subcommittees to coordinate on protected species management issues. Also, through the ESA section 7 process, any Federal Experimental Fishery Permit would be reviewed to assess the impacts of that fishery on species protected under the ESA, such as right whales.

Comment 4: Two commenters opposed the preemption of state laws and/or regulations by Federal regulations issued by NMFS. One of these commenters noted that states should make their own rules as they are better able to adapt whale protection measures in response to new information, and to adjust those measures when necessary, than NMFS. This same commenter noted that enforcement could prove to be even more problematic than it currently is.

Response: Although the MMPA provides NMFS with authority to regulate in State waters, states can develop equally protective or more protective restrictions if they choose, and NMFS encourages such action. Further, NMFS has cooperative agreements in place with a number of Atlantic states, which enable states to enforce requirements of the MMPA and its implementing regulations.

NMFS tries to coordinate with states on other issues as well. For example, with regard to gear markings that yield individual vessel information, many of the state and Federal FMPs currently require marking of buoys and/or traps with individual vessel identification. NMFS plans to continue to work with state fisheries agencies to investigate gear marking coast-wide and identify gaps in marking of surface gear, gillnets, and traps. This information will be presented to the ALWTRT for future consideration.

Comment 5: NMFS must develop and implement plans for the conservation and survival of the right whale under the MMPA and ESA and the current plan has not met that mandate.

Response: NMFS is presently updating the ALWTRP with additional gear modifications in this final rule, as well as with measures proposed for Seasonal Area Management (66 FR 59394, November 28, 2001) and Dynamic Area Management (66 FR 50160, October 2, 2001). It is NMFS' Biological Opinion (BO) that if the agency modifies the ALWTRP according to the RPA, then the continued operation of the four fisheries will not jeopardize the continued existence of the western North Atlantic right whale. The ALWTRP is not a static plan, and NMFS continues to revise the ALWTRP to achieve its goals of reducing the serious injury and mortality of whales in commercial fishing gear. The ALWTRT continues to convene yearly as required to make recommendations to NMFS on any needed modifications to the plan to reach the Potential Biological Removal levels and Zero Mortality Rate Goal of right, humpback, fin and minke whales. Additionally, pursuant to the ESA, NMFS publishes recovery plans for endangered or threatened marine mammals to promote the recovery of the species. The first Right Whale Recovery Plan was published in 1991, and an updated draft was recently released for public comment (66 FR 36260, July 11, 2001). The comment period ended October 25, 2001, and NMFS is presently reviewing comments and modifying the plan. The plan includes an implementation schedule to direct and monitor the completion of recovery tasks.

Comment 6: One commenter noted that although progress has been made to identify gear modifications that hold potential for reducing entanglement risks, strong reliance on gear modification as a take reduction tool is warranted only if there is a solid reason to believe they will reduce entanglement risks (e.g., neutrally buoyant line). The commenter added that most gear modifications to date offer little certainty that they will actually reduce entanglement risk. Another commenter thought that NMFS should stop relying on current best fishing practices to reduce mortality and serious injury as these practices have been unsuccessful.

Response: NMFS believes that implementing the additional gear modifications in this final rule combined with the forthcoming final rules on Seasonal Area Management (SAM) and Dynamic Area Management (DAM) of lobster and gillnet fisheries will reduce interactions between right whales and fishing gear, and reduce serious injury and mortality of right whales due to entanglement in fishing gear. The RPAs in the June 14, 2001, BOs advised NMFS to, amongst other measures, expand additional gillnet and lobster pot gear modifications to avoid jeopardizing the continued existence of North Atlantic right whales (See preamble under Changes in the Final Rule from the Proposed Rule for discussion on the RPA and the southeast gillnet fishery). Since issuance of the BOs, NMFS has conducted additional analyses of available data including that on the seasonal movement and congregations of right whales, previous entanglements, and the nature and position of gear in the water. Based on these analyses and our knowledge of North Atlantic right whale behavior, NMFS has identified gear modifications that prevent serious injury or mortality. These additional gear modifications will be implemented with this final rule. NMFS considered multiple strategies to decrease gear interactions with large whales, including implementing gear modifications based on recent technological advances. Time/area closures have also been used under the ALWTRP to remove the potential for interaction between large whales and lobster and gillnet fisheries.

Comment 7: One commenter noted that NMFS must undertake an adequate program of research and development for the purpose of devising improved fishing methods and gear so as to reduce the incidental taking of right whales in commercial fishing. Two commenters noted that there should be aggressive gear research undertaken with promising innovations implemented in a timely manner.

Response: As part of the RPA in the BOs issued on June 14, 2001, NMFS noted the need for continued gear research and modification. NMFS is committed to gear research and development, and will expand this program as funding allows. NMFS has gear laboratories and research teams that specifically focus on gear development and testing. Additionally, NMFS contracts with researchers, individuals and companies to develop gear solutions. Much of the current take reduction plan measures are based on the outcome of such gear research (e.g., weak links) conducted and/or funded by NMFS. The gear modifications are important to reduce interactions between right whales (and other large whales) and fishing gear to further reduce serious injury and mortality of

large whales due to entanglement in fishing gear. In addition, NMFS intends to continue to support the contributions made by the ALWTRT's Gear Advisory Group. NMFS is collaborating with other organizations to host a gear workshop, tentatively scheduled for February 2002, to investigate additional options and gear enhancements for gillnet and lobster trap gear. The results of this workshop will be distributed to the ALWTRT for consideration of future gear recommendations to NMFS. (Also see response to comment 34).

Comment 8: Two commenters objected to the language in the BO that NMFS would use an entanglement by unidentified gear or gear approved for use in multi-species fisheries to generate a conclusion that the measures in the RPA are not demonstrably effective at reducing right whale injuries or death. They mentioned the gear could possibly be Canadian or from other sources of line. The commenters also felt that scarification is a poor indicator of whether the RPA is effective as scars can occur for a number of reasons, including interactions with fishing gear and vessels that are not serious.

Response: Although this comment is not related to the proposed rule for gear modifications, NMFS will take the comments under consideration.

Comment 9: One commenter urged the ALWTRT to continue to work with the Gear Advisory Group to explore and develop additional gear options that do not pose a risk to the large whale population.

Response: NMFS intends to continue to support studies on gear modifications to reduce interactions, and eliminate serious injury and mortality. NMFS sees the value of the contributions that the Gear Advisory Group can bring to the ALWTRT. NMFS is collaborating with other organizations to host a gear workshop in 2002 to investigate options for gillnet and lobster trap gear modifications to prevent serious injury to right whales that may become entangled in gillnet and lobster trap gear. The results of this workshop will be distributed to the ALWTRT for consideration in making additional recommendations to NMFS. NMFS will also be reconvening the Gear Advisory Group in 2002 and distributing the results of the gear workshop to participants.

Comment 10: NMFS should immediately identify at-sea enforcement as a high priority and develop protected resources penalty schedules for the ALWTRP.

Response: NMFS agrees that at-sea enforcement is important to the success of the ALWTRP and does conduct such enforcement. NMFS also relies on its partnership with the U.S. Coast Guard to monitor compliance with the ALWTRP. NMFS already has penalty schedules for violations of the MMPA, ESA, and regulations issued pursuant to those statutes.

Comment 11: The fishing industry was not notified of the publication of the proposed rule, and involving industry is crucial to the success or failure of these plans. A letter to permit holders, similar to what is done for fishery regulations, should have been sent to involve industry. Involving industry is crucial to the ALWTRP process.

Response: Given the current critical status of the right whale population and the aggregate effects of human-caused mortality that have led to the species' current status, the development of this final rule occurred during an accelerated rulemaking process. Time constraints prevented NMFS from holding public hearings on the current regulations; however, NMFS used other ways to let the public know that public comments were being sought on a proposed rule to address commercial fishery/large whale interactions. These efforts included distributing the information to ALWTRT members who represent various stakeholder groups and provide valuable links to distribute information to the public, issuing a NOAA press release and an announcement in NOAA's FishNews, providing notification through the **Federal Register**, and communicating with state managers. NMFS will consider other means of communicating with the public and welcomes recommendations on ways to disseminate such information, such as through letters to permit holders, as was suggested. NMFS agrees with the commenter that involving fishermen in the process is important to the success of the ALWTRP.

Comment 12: Three commenters noted that neutrally buoyant line holds promise as a measure to reduce risk of entanglements. Removing floating line from the water column is widely believed to be important to reducing risk to whales. Two of these commenters also made specific recommendations by management area for the lobster fishery: (1) Both commenters noted that the use of neutrally buoyant line should be required in the Northern Inshore Lobster Waters. One of these commenters thought this should be effective January 1, 2003, in the Cape Cod Bay Critical Habitat, and in the Northern Inshore State Lobster Waters Area effective January 1, 2004; (2) both commenters suggested NMFS require the use of neutrally buoyant line in offshore lobster trawl lines. One of these commenters suggested implementation by January 1, 2004; and (3) one commenter thought that NMFS must mandate the immediate use of neutrally buoyant line for all lobster ground lines, and another commenter suggested this requirement be mandated by 2004.

Response: Neutrally buoyant line is an important gear modification to reduce interactions between right whales and fishing gear by reducing the amount of line in the water column. NMFS has incorporated the option to use neutrally buoyant line into parts of the ALWTRP through this final rule.

NMFS will seek recommendations from the ALWTRT on whether to require neutrally buoyant line and how NMFS could implement such a requirement in the future. In addition, NMFS will continue to work with industry to incorporate neutrally buoyant or sinking line into their operation whenever possible.

NMFS is currently investigating issues such as the time to change over and other operational problems associated with the full utilization of neutrally buoyant line. For example, NMFS is working with a Gulf of Maine offshore lobster fisherman who is willing to change over all his buoy and ground lines to neutrally buoyant line for 1800 traps. This fisherman will provide monthly reports to the NMFS Gear Research Team on how the traps work with the line, how breaking strength holds up over time, and the life expectancy of the gear. NMFS is also beginning to investigate the manufacturing issues that may arise should this technology be used as a widespread risk reduction tool. These results will be presented to the ALWTRT for consideration. The NMFS' Gear Research Team has also supplied 90 miles (78.2 nm) of neutrally buoyant line to lobster and gillnet fishermen from Maine to Rhode Island to test the life expectancy of the line, how the breaking strength holds up over time, and other operational considerations. These results will also be provided to the ALWTRT for consideration. NMFS notes that the requirement to use neutrally buoyant line in a Seasonal Area Management (SAM) could mean benefits to whales if these same fishers use this gear in other areas. Fishermen and the NMFS Gear Research Team report that many fishermen from Maine through Rhode Island already use neutrally buoyant line as part of their fishing operation due to local tides and/or type of fishing bottom. NMFS appreciates the concern and effort

fishers have shown by switching to neutrally buoyant or sinking line to reduce gear interactions with large whales.

Comment 13: One commenter stated that weak links at buoy lines may offer little meaningful protection against entanglement risks. As most entangled whales are found without buoys, a weak link at the buoy may not increase the likelihood that a line sliding through a whale's mouth will break away before the whale becomes more entangled. It is questionable that a weak link strong enough to maintain fishing gear in an operable condition would fall free before a whale begins thrashing and becomes entangled. The commenter also suggested that NMFS should assess the effectiveness of knotless lines by examining lines removed from whales, as well as photos of the entangled whales, to evaluate the extent to which knots tied by fishermen may have contributed to the entanglement. The relative proportion of entangled whales with and without potential troublesome knots could provide a measure of the overall effectiveness of eliminating knots.

Response: NMFS believes that implementing the additional gear modifications in this final rule combined with the forthcoming final rules on SAM and DAM of lobster and gillnet fisheries will reduce interactions between right whales and fishing gear, and reduce serious injury and mortality of right whales due to entanglement in fishing gear. NMFS feels that weak links and installation of these in such a way that produces knotless ends if the weak link breaks are important gear modifications. Of the 15 right whale entanglements from 1997 through 2001 where gear was either recovered or documented, buoys were present in eight cases. NMFS will be conducting a similar analysis with other whale species.

NMFS has investigated whether an analysis on rope recovered from entangled whales could help determine the effectiveness of eliminating knots. However, NMFS does not usually have information on how the whale became entangled and in which part of the retrieved gear it was entangled. NMFS will continue to investigate this and work with others to obtain information to better assess large whale interactions with fishing gear.

In regard to the question of a weak link being strong enough to break free and maintain gear in operable condition, see summary on page 49899 of the proposed rule on gear modifications (66 FR 49896, October 1, 2001) of the right whale entanglement and subsequent gear analysis indicating that the surface system was separated from the buoy line going to the trawl by a 3,780-lb (1,714.3-kg) weak link. It appears the whale was able to part the gear at the 3,780-lb weak (1,714.3-kg) link although the whale was still entangled in gear. However, NMFS believes that the lower breaking strengths for weak links required in this final rule will provide improved protection for right whales. NMFS will continue working with others to develop additional gear modifications and appreciates hearing ideas from the public.

Southern Nearshore Lobster Waters Area

Comment 14: One commenter supported NMFS' proposal to replace the Lobster Gear Technology List with the following year-round gear modifications: (a) Installation of a weak link with a maximum breaking strength of 600 lb (272.4 kg) on the buoy line, and (b) installation of weak links such that if the lines were to break, they would produce knotless ends on the line.

Response: Research will continue to investigate alternative methods to connect lines.

Comment 15: One commenter opposed the elimination of the gear technology list for the Southern Nearshore Lobster Waters Area. The commenter noted that they should have an option list just like northern inshore areas are offered one.

Response: NMFS proposed to replace the Lobster Take Reduction Technology List with mandatory gear modifications based upon the recommendation of the ALWTRT Mid-Atlantic subgroup. NMFS believes that these mandatory gear modifications are necessary to reduce entanglements in this area.

Comment 16: One commenter supported reducing the current 1,100 lb (498.8 kg) breaking strength at the buoy to 600-lb (272.4 kg) breakaway for nearshore lobster areas due to research results, except for the Outer Cape or offshore due to difficult sea and current conditions.

Response: Current gear research indicates that a 600 lb (272.4 kg) breaking strength weak link is sufficient to protect whales, as well as to keep gear feasible in the Southern Nearshore Lobster Waters Area and prevent ghost gear. The 600 lb (272.4 kg) weak link requirement has been in effect since February 21, 2001, in the Northern Nearshore Lobster Waters Area, and the NMFS Gear Research Team has had very few problems reported to them regarding weak links. The NMFS Gear Research Team has conducted research on how much strain there is on inshore buoy systems on the Outer Cape. Inshore lobster buoys were towed up to 20 knots and a 120 lb (54.432 kg) strain was recorded. Load cells were also attached to large buoy systems in Grand Manan Channel, known for its strong tides (approx. 18 to 20 ft (5.49 m to 6.09 m)), and a 140 lb (63.5 kg) strain was recorded in the spring. For comparison, NMFS notes that in over a year of testing the highest maximum strain the NMFS Gear Research Team recorded on load cells attached to offshore lobster surface buoy systems was 535 lb (243 kg). NMFS cautions that recorded strains can not dictate weak link breaking strengths, as breaking strengths must include reasonable measures of safety that would help prevent gear from being lost at sea during the worst conditions. NMFS appreciates the commenter's general support for changes to other nearshore lobster areas.

Comment 17: Two commenters noted that neutrally buoyant line should be a requirement in the Southern Nearshore Lobster Waters Area as the lowered breaking strength of the weak link may not provide adequate risk reduction.

Response: Past entanglements provide evidence that weak links are a critical measure to prevent serious injury or mortality of marine mammals. NMFS believes that the use of a 600-lb (272.4-kg) weak link on the buoy line and knotless weak links would reduce risk of serious injury and death if an entanglement were to occur. In response to the comment on neutrally buoyant line, see response to comment 12.

Comment 18: One commenter noted that there is not sufficient research on the proposed weak links on a buoy line (not the breakaway at the buoy) to mandate a year-round requirement for all buoy lines in the southern nearshore areas. This commenter supported research to develop a weak link in the main buoy line.

Response: The proposed rule did not clearly indicate where in the buoy line the weak link is required. NMFS has clarified this in the regulatory text in this final rule. Specifically where fishermen are required to utilize buoy weak links, they will also be required to place the weak link as close to each individual buoy as operationally feasible. The NMFS Gear Research Team has already begun investigating development of a weak link in the main buoy line.

Offshore Lobster Waters Area

Comment 19: Two commenters did not support the proposal to reduce breaking strength of weak links in

offshore gear to 2,000 lb (906.9 kg). These commenters added that the breaking strength of 2,000 lb (906.9 kg) is approximately four times the maximum strain of 535 lb (243 kg), not three times as stated in the discussion of the proposed rule. Two commenters believed that the breaking strengths in both the offshore surface and buoy lines should be lowered. One of these commenters suggested that NMFS subdivide the offshore area to allow for the reduced breaking strengths of 600 lb (272.4 kg) at all buoys and the use of a weak link with a maximum breaking strength of 1500 lb (680.4 kg) between the surface system and the line to the trawl; and in offshore areas 1500 lb (680.4 kg) be required at all buoys and the line between the surface system and the trawl. All four of the commenters suggested NMFS should require breaking strengths to more closely reflect the maximum loads sustained by the gear as outlined in the final summary of the latest ALWTRT meeting in order to reduce entanglement risks.

Response: The breaking strength of 2,000 lb (906.9 kg) is more than three times the maximum strain of 535 pounds (243 kg) recorded on the buoy system of offshore lobster gear, not three times the maximum strain of 535 pounds (243 kg) as reported in the proposed rule. NMFS cautions that recorded strains can not dictate weak link breaking strengths, as breaking strengths must include reasonable measures of safety that would help prevent gear from being lost at sea during the worst conditions. NMFS believes that the required breaking strengths are both beneficial to whales and safe for the industry. The 2,000 lb (906.9 kg) breaking strength for year-round use in offshore lobster waters outside of SAM was arrived at through the TRT process. NMFS believes a reduction from the previously required 3,780-lb (1,714.3-kg) weak link to the 2,000 lb (906.9 kg) weak link required in this final rule is a substantial reduction and provides a conservation benefit to right whales. The NMFS Gear Research Team will continue load cell testing on offshore lobster gear and report their results to the ALWTRT. NMFS will continue to work with industry and others on this issue through the ALWTRT process, and will seek feedback from the ALWTRT, gear workshop participants, and the Gear Advisory Group on the most appropriate location(s) to conduct load cell testing on offshore lobster gear.

Comment 20: Two commenters noted that having two different breaking strengths in the gear is confusing to the industry and three commenters noted it is not protective of whales. These commenters believe that a 3,780-lb (1,714.3-kg) weak link at the surface buoy only helps if a whale becomes entangled above the weak link at the surface, and that this defeated the purpose of lowering the strength of the weak link at the buoys.

Response: NMFS has been conducting outreach to offshore lobster industry representatives on this issue and discussions with them and fishermen indicate that having different breaking strengths in their gear is not confusing. Rather, the industry understands why various breaking strengths may be needed and would rather make modifications based on what research indicates is needed to reduce interactions.

In response to comments questioning the conservation benefit of a 3,780-lb (1,714.3-kg) weak link at the line between the surface system and the buoy line leading down the trawl, NMFS has decided to withdraw this requirement at this time. NMFS proposed this requirement based on the analysis of offshore lobster gear recovered from an entangled right whale, as described in the proposed rule (66 FR 49896, October 1, 2001). As the results of the gear analysis seemed to indicate that the presence and location of the weak link in the gear may have prevented the animal from becoming further entangled in the buoy line below the weak link, NMFS proposed to require the installation of this weak link in offshore lobster traps. However, as there are concerns whether sufficient resistence would exist for a whale to part such a weak link given its position in the gear, NMFS has withdrawn this proposal. NMFS will discuss this analysis with the ALWTRT and continue load cell testing on offshore lobster gear as mentioned in the previous comment.

Comment 21: One commenter supported the weak link below the buoy on the offshore lobster gear. The commenter supported NMFS making this proposal based on detailed entanglement data.

Response: NMFS has decided not to implement this requirement at this time (see previous comment).

Comment 22: Two commenters generally agreed with the provisions in the proposed rule for the Offshore Lobster Waters Area, and one added that the breaking strengths noted in the proposed rule were a positive step toward further protection of right whales and other marine mammals. Both commenters noted that the 2,000-lb (906.9-kg) weak link was a compromise by the offshore industry, and stated that the offshore industry supported this recommendation contingent on the lack of lost or ghost gear produced by inclement weather.

Response: As described in the response to comment 19, NMFS will continue to conduct load cell testing on offshore lobster gear to investigate the operational forces experienced in this fishery under various conditions.

Comment 23: One commenter supported the installation of weak links so that if the lines were to break, they would produce knotless ends on the line.

Response: Broken weak links providing knotless ends on the line is important so that it will not become lodged in the whale's baleen or around an appendage of a whale.

Northeast and Mid-Atlantic Gillnet Waters Area

Comment 24: One commenter generally supported the extension of measures for gillnet gear from the northeast to mid-Atlantic waters. One commenter supported the proposal to require fishers in the mid-Atlantic to return all gillnet gear to port with their vessels or to anchor their gear.

Response: The need for additional gear modifications in these fisheries had been considered by the ALWTRT, but not implemented by the December 2000 interim final rule. The RPA developed in response to the Bos included additional gear modifications for the Mid-Atlantic gillnet and lobster trap fisheries that were necessary to avoid jeopardizing the continued existence of North Atlantic right whales.

Comment 25: One commenter opposed requiring weak links and Danforth anchors at both ends of the spot sink gillnet fishery in southeastern NC. As this fishery operates near or at the surf zone, the commenter was concerned that the weak links would cause the net to break when it is being dragged into calmer water, and a Danforth anchor would not enable the fishermen to drift with their nets to calmer water. The commenter thought these gear requirements should be exempted in the area due to this unique fishery.

Response: The gear requirements state that mid-Atlantic gillnet gear has to be anchored at each end of the net string with an anchor that has the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor, not necessarily a Danforth anchor. However, fishers do not have to use an anchor unless they return to port without their gear. NMFS recommends that spot gillnet fishers explore different ways to anchor their gear in this fishery. NMFS gear

specialists are available to consult with on these types of issues, but some suggestions include using other anchors that do not become entangled on the ocean bottom and are retrieved successfully from the bottom, but have the same holding power of at least a 22-lb (10.0-kg) Danforth-style anchor. In response to the comment on weak links, gear research studies that involved pulling a string of nets in the Gulf of Maine in up to 45 knots of wind in 100 fathoms of water and utilizing 1,100 lb (272.4 kg) weak links resulted in no failures. Thus, it is unlikely that the weak links in the spot gillnets would break during fishing operations. The NMFS Gear Research Team will continue to investigate weak links and various anchoring systems.

Comment 26: One commenter opposed the 1,100-lb (272.4-kg) maximum breaking strengths for the weak links and said that NMFS incorrectly stated that the ALWTRT Mid-Atlantic recommended 1,100 lb (272.4 kg) rather than 600 lb (272.4 kg). The full ALWTRT did not reach consensus on this point as the New Jersey state representative and fishermen said their fisheries were prosecuted similarly to the northeast, whereas Virginia and North Carolina fishermen were willing to adopt a 600-lb (272.4-kg) breaking strength. Representatives from environmental organizations were concerned that humpback entanglements off North Carolina and Virginia have appeared to increase, and scientists with experience in whale disentanglement have indicated that humpback whales do not appear to exert the same degree of force as right whales do to break free of gear. The commenter recommended that in areas south of New Jersey, NMFS should require gillnetters to install weak links with a maximum breaking strength of 600 lb (272.4 kg) in buoy line and in the center of the floatline on each net panel.

Response: NMFS has decided to require a breaking strength in Mid-Atlantic gear similar to that required in northeast gillnet gear until the gear research studies using load cells currently planned for the mid-Atlantic are conducted. Such studies are scheduled to occur during the winter of 2002 and a report will be provided at the next ALWTRT meeting. The ALWTRT including its New Jersey representative, and its Mid-Atlantic subgroup can discuss these results and come up with new recommendations to NMFS, if deemed necessary. In response to concerns about humpback whale entanglements off of North Carolina and Virginia, NMFS will continue to work through the ALWTRT process to address humpback whale entanglements in these areas. The BOs found jeopardy to right whales, not humpbacks, and the recommended RPA is designed to avoid jeopardy to right whales.

Southeast U.S. Restricted Area

Comment 27: One commenter supported the proposal to prohibit straight sets of gillnet at night between November 15 and March 31 in the southeast US unless the exemption under 50 CFR 229.32(f)(3)(iii), which relates to shark gillnets, applies.

Response: NMFS will not be implementing regulations on straight sets of gillnet in the Southeast U.S. restricted area at this time. Although this requirement was contained in the proposed rule, NMFS inadvertently omitted the analysis of its expected impacts from the EA/RIR. As a result, NMFS did not provide adequate information for the public to provide comment on the proposed provision. NMFS will provide the public another opportunity to comment on this provision and the necessary analytical documents as soon as possible.

Northern Inshore Lobster Waters and Lobster Take Reduction Technology List

Comment 28: Four commenters opposed dropping the 7/16-in (1.11-cm) diameter line option, two mentioned that most or all line removed from whales has been larger than 7/16 in (1.11 cm). Three commenters believed that dropping this option puts animals at greater risk because the use of thicker rope will no longer be discouraged. One of these commenters noted that the 7/16-in (1.11-cm) line should be replaced with more specific breakaway features only after they are field tested and found to be practical. The commenter added that many fishermen in the Cape Cod area have reported that by using line that measures only 5/16 in (.79 cm) or 3/8 in (.95 cm) in diameter they are contributing to risk reduction. These lines are comparatively lighter with lower breaking strengths than lines used in the past. One of these commenters also noted that with the elimination of 7/16 in (1.11 cm) or less diameter line, fishers fishing single traps on the Outer Cape have less options available for reducing the risk to whales because they have no ground lines and a strong current makes 600-lb (272.4-kg) breakaway buoys impractical (a lost buoy on a single trap means the trap is lost). The commenter would like to encourage the members if the Massachusetts's Lobstermen's Association to continue to use single pots in state waters to avoid ground lines and continue to use thinner ropes.

Response: The option of using buoy line of a diameter of 7/16 in (1.11 cm) or less was previously adopted as part of the ALWTRP based upon the breaking strength of 7/16 in (1.11 cm) line. This strategy assumed that using a line with a consistent diameter would result in a consistent breaking strength. However, experience has demonstrated that the breaking strength of 7/16 in (1.11 cm) line can vary dramatically. Weak links, or alternative techniques such as swivels, are expected to provide a more reliable and consistent breaking strength rather than using line diameter to predict breaking strength. NMFS does not believe fishermen will go to larger line than what they are currently using due to the costs involved in purchasing and incorporating the new line. Also, removing this option from the Lobster Take Reduction Technology List does not prevent a fisherman from continuing to use buoy line with a diameter of 7/16 in (1.11 cm) or less.

Field testing conducted by the NMFS Gear Research Team indicates that a 600-lb (272.4-kg) weak link will be feasible in this area. For specifics and in regard to the comment on field tests, see response to comment 16. The NMFS Gear Research Team will assist fishers in determining whether alternative devices will work and provide them with feedback on whether the breaking strength is in compliance with current ALWTRP regulations. NMFS would like to reiterate that fishers can still use 7/16 in (1.11 cm) or less diameter buoy line.

Comment 29: Four commenters noted that the use of 7/16 in (1.11 cm) line should be immediately discontinued as an option on the Lobster Take Reduction Technology List. One of these comments noted that since February 2000 the ALWTRT has been questioning the conservation risk reduction value of this option. Another agreed with NMFS that line thickness is not an appropriate entanglement risk reduction tool because line thickness has little bearing on breaking strength. However, the commenter did not think that the unacceptable wear in weak links should be a reason to delay the requirement as weak links could be replaced as necessary, pending the development of longer-lived links if that proves necessary. In addition, the commenter noted that other options aside from weak links can be chosen from the list and NMFS did not provide enough information on the prevalence of an unacceptable wear in weak links.

Response: NMFS agrees that the 7/16-in (1.11-cm) or less diameter buoy line option should be removed from the Lobster Take Reduction Technology

List. NMFS will be removing the option from the list effective January 1, 2003. NMFS believes that this is justified based on concerns expressed by some members of the ALWTRT Northeast subgroup that weak links may not be standing up well to inshore conditions and may be showing signs of abrasion and weakening with only a single season of use. An ALWTRT member brought a weak link showing this type of wear to the June 2001 ALWTRT meeting. NMFS believes that removing this option January 1, 2003, will enable fishermen and gear specialists to address this localized problem, and give fishermen time to incorporate an option into their fishing gear. The NMFS Gear Research Team will be available, if needed, to provide support in the development of alternative methods to achieve the purpose of the weak link requirement. NMFS will also conduct extensive outreach to fishing communities and industry associations throughout New England to inform inshore lobster fishermen of their ALWTRT requirements and encourage them to begin developing improved weak links or choosing a different option other than the 7/16 in (1.11 cm) or less diameter buoy line if they do not already meet the Lobster Take Reduction Technology List requirements. Those fishers who need to select another option will be encouraged to do so as soon as possible.

Comment 30: In the proposed rule, NMFS combined two options on the Lobster Take Reduction Technology List into one. The elimination of floating rope on ground line and the elimination of floating rope at the bottom of buoy lines are two options.

Response: NMFS agrees with the commenter that in the explanatory text of the proposed rule, NMFS incorrectly stated that comprising all buoy lines and ground lines with entirely sinking and/or neutrally buoyant line is one option. It was NMFS' intent that these be two options as indicated on page 49907 of the proposed rule (66 FR 49896, October 1, 2001) under the Lobster Take Reduction Technology List regulatory section where using entirely sinking and/or neutrally buoyant line on all buoy lines is one option and using entirely sinking and/or neutrally buoyant line on all ground lines is another option.

Comment 31: Three commenters supported the use of neutrally buoyant buoy and ground lines as an option to the Lobster Take Reduction Technology List, one noting that this should not be delayed until 2003.

Response: In response to the comment to not delay this option until 2003, NMFS notes that this option will go into effect in 2002 with this final rule.

Gillnet Take Reduction Technology List

Comment 32: The 7/16-in (1.11-cm) line should be replaced with more specific breakaway features only after they are field tested and found to be practical. If NMFS removed this option fishermen may opt for stronger lines. The commenter noted that many fishermen in the Cape Cod area have reported that by using lines that measure only 5/16 in or 3/8 in in diameter they are contributing to risk reduction. These lines are comparatively lighter with lower breaking strengths than lines used in the past.

Response: Fishermen can still use 7/16 in (1.11 cm) line; however, it can not be counted as an option from the Take Reduction Technology List. NMFS will continue its gear research to test the breaking strength of various lines and will continue to report these results to the ALWTRT for consideration. Also see response to comment 28.

Comment 33: Two commenters supported the removal of the 7/16-in (1.11-cm) or less line diameter from the technology list. However, one of these commenters noted that NMFS should ensure that the effective date for both gillnet and lobster fisheries is the same.

Response: Due to reported wear in the weak links in the Inshore Lobster Waters Area, NMFS has delayed requirements for this area (see response to comment 29).

Comment 34: Two commenters noted that the proposed rule indicated that the ALWTRT did not recommend changes to gillnet fisheries in the northeast. The ALWTRT did address such changes but was unable to reach consensus on them. NMFS has put little effort into developing innovative approaches to reducing risk from gillnet gear. If gillnet gear is to be used, risk reduction modifications must be implemented. These commenters also noted that there is a need to develop and implement new gillnet gear modifications in mid-Atlantic coastal and Northeast waters.

Response: NMFS is expanding gillnet gear modifications and restrictions in this final rule, as well as in the forthcoming final rules on SAM and DAM, which will reduce interactions between right whales and gillnet gear, and reduce serious injury and mortality of right whales due to entanglement in gillnet gear. The RPA in the June 14, 2001, BOs advised NMFS to, amongst other measures, expand additional gillnet and lobster pot gear modifications to avoid jeopardizing the continued existence of North Atlantic right whales. Since the issuance of the BOs, NMFS has conducted additional analysis of available data including that on the seasonal movement and congregations of right whales, previous entanglements, and the nature and position of gear in the water. Based on these analyses and our knowledge of North Atlantic right whale behavior, NMFS has identified gear modifications that prevent serious injury or mortality. These additional gear modifications will be implemented with this final rule.

NMFS continued gear research and modifications and these efforts include the RPA requirements to: (1) Host a workshop to investigate options for gillnet (and lobster) modifications to prevent serious injury from entangling right whales; (2) expanded research and testing on eliminating floating line in the anchor and buoy lines of gillnet gear (and lobster gear), and replacing it with neutrally buoyant line; (3) continued research on weak link float lines in gillnet gear to investigate the possibility of reducing the strength of gillnet float-lines, a known problem area in the entanglement of large whales; and (4) continued research on Mega-Float line in gillnets to eliminate external plastic floats combined with properly placed weak links. Additionally, NMFS will be conducting tests on how different types of weak links react to different types of anchoring systems; to do this NMFS will tow gillnets through the water to simulate a whale entanglement. NMFS has also contracted with a company to develop rope with uniform breaking strength to distribute to fishers for field testing. Additional efforts NMFS has conducted include hiring an outreach coordinator for the Southeast Region (similar to the position already in place in the Northeast) to conduct outreach on the various TRPs including the Atlantic Large Whale TRP, as well as to solicit gear modification ideas from fishers. NMFS will continue to work with the ALWTRT and seek input from the Gear Advisory Group (also see response to comment 9) to identify additional management measures in the gillnet fisheries.

Changes in the Final Rule From the Proposed Rule

NMFS proposed to require the installation of weak links with a maximum breaking strength of 3,780 lb (1,714.3 kg) in offshore lobster trap gear between the surface system (all surface buoys, the high flyer, and associated lines) and the buoy line leading down to the trawl. This proposed measure was the result of analysis conducted by NMFS from a successful disentanglement of a 7-year-old male

North Atlantic right whale, catalog #2427, on July 20, 2001. NMFS' analysis concluded that the gear recovered during the disentanglement and the description of the owner's typical gear configuration indicated that the surface system was separated from the buoy line going to the trawl by a weak link with a breaking strength of 3,780 lb (1,714.3 kg). It was felt that the presence and location of this weak link in the gear may have prevented the animal from becoming further entangled in the buoy line.

However, since the publication of this proposed measure, NMFS technical experts have re-evaluated this proposed measure. Although in theory the proposed measure would add an extra level of protection to potentially prevent the risk of serious injury to North Atlantic right whales should they become entangled in the buoy line, this measure is not practical from a mechanical standpoint. Operationally, having any weak link below the float system will essentially be ineffective. In order to break, a link would need to have adequate resistance from the relevant end of the gear. Given that any whale that is caught below the link would be pulling against nothing more than the surface system and the buoy, one cannot reasonably conclude that the resistance involved would be sufficient to trigger the break of the weak link. NMFS has reconsidered this measure and is not requiring the use of weak links between the surface system and the buoy line for the offshore lobster trap fishery. Therefore, in § 229.32, paragraph (c)(5)(ii)(B) of the proposed rule is removed from the final rule.

NMFS also proposed that fishermen with gillnets in the Southeast U.S. Restricted Area be prohibited from setting gillnets in straight sets at night during the restricted period, unless they meet the criteria for an exemption for shark gillnets that currently exists in the regulations. Although this requirement was contained in the proposed rule, NMFS inadvertently omitted the analysis of its expected impacts from the EA/RIR. As a result, NMFS did not provide adequate information for the public to provide comment on the proposed provision. NMFS will provide the public another opportunity to comment on this provision and the necessary analytical documents as soon as possible. Consequently, NMFS is eliminating this measure from the final rule by eliminating paragraph (f)(3)(iv) in § 229.32 of the proposed rule.

NMFS believes this final rule, in combination with the forthcoming rules for SAM and DAM, are collectively sufficient to remove the likelihood of jeopardy to the continued existence of North Atlantic right whales from the Northeast multispecies, spiny dogfish and monkfish gillnet, and American lobster fisheries as the Northeast Multispecies, Spiny Dogfish, and Monkfish FMPs do not incorporate southern U.S. waters. NMFS recently elevated Southeast Atlantic gillnet fisheries to Category II in the Final List of Fisheries for 2001 (66 FR 42780, August 15, 2001) due to their occasional interaction with bottlenose dolphins. The Southeast Atlantic gillnet fishery is separate from the Category II Southeastern U.S. Atlantic shark gillnet fishery presently regulated by the ALWTRP.

NMFS intends to consider implementation of this measure, after public review of its environmental and economic impact analysis, as soon as possible in 2002, but no later than November 1 when the whales are expected to return to this area. This delay is not expected to adversely affect North Atlantic right whales. Unlike the Northeast, there is no direct evidence of interactions between right whales and gillnets in the southeast region. However, the ALWTRT developed the proposed modifications in Southeast waters as a precautionary measure to address the potential rare occurrence of interaction and to offer additional protection to right whales.

A technical change was also made to correct and clarify the intent of the regulations. As proposed, lobster trap gear in the Southern Nearshore Waters Area and Offshore Lobster Waters Area, and gillnet gear in the Mid-Atlantic Coastal Waters are required to install weak links at the buoy. However, the proposed regulations were not clear as to the location of the installation of the weak links at the buoy. Therefore, in § 229.32, paragraph (c)(8)(ii) is revised to clarify the location of the buoy line weak links within the Southern Nearshore Lobster Waters Area, Offshore Lobster Waters Area, and Mid-Atlantic Coastal Waters.

Classification

NMFS prepared a FRFA for this final rule. A copy of this analysis is available from NMFS (see **ADDRESSES**). Four alternatives were evaluated, including a status quo or No Action alternative, the Preferred Alternative (PA), and two other alternatives. A summary of that analysis follows:

1. NMFS considered but rejected a No Action alternative that would result in no changes to the current measures under the Atlantic Large Whale Take Reduction Plan. The No Action alternative would result in no additional economic burden on the fishing industry, at least in the short-term. However, if the status quo is maintained now, more restrictive and economically burdensome measures than those in this final rule may be necessary in the future to protect endangered right whales from the fisheries. The No Action alternative was rejected because it would not enable NMFS to meet the RPA measures of the BO required under the ESA.

2. NMFS considered but rejected an alternative that would consist of the PA as well as the use of full weak links at the surface and bottom of the buoy line and the reduction of floating line. The operational impacts of the bottom weak link may be large for the fishermen and result in negative impacts on the North Atlantic right whale. The ability to haul back gear successfully while employing a bottom weak link has not been developed and the potential for gear loss is considered high at this point. Gear left on the bottom without surface representation, such as buoy or high flyer, is difficult to recover and becomes ghost gear which continues to fish and still presents an entanglement risk to the North Atlantic right whale.

3. NMFS considered but rejected an alternative that would consist of the PA as well as buoy line removal and the reduction of floating line. Complete removal of buoy line and reduction of floating line are recognized as the most risk averse technique for utilization of fixed gear. However, one of the major drawbacks of this alternative is that other fishermen will not know where gear has been set, and gear conflicts with both fixed and mobile gear are likely to result in lost and/or damaged gear possibly resulting in an increase in ghost gear. Ghost gear is a potential entanglement source and source of negative impacts on North Atlantic right whales. Thus, this option may only be feasible in areas where other gear cannot be set or can be strictly controlled.

4. The PA plan includes the expansion of gear modifications (e.g. weak links) to the Southern Nearshore Waters lobster trap and Mid-Atlantic Coastal Waters gillnet fisheries, and a reduction in the maximum breaking strength for buoy weak links used in the Offshore Lobster Waters Area. NMFS accepted this alternative as these gear modifications are necessary to avoid jeopardizing the continued existence of North Atlantic right whales and enable NMFS to meet a portion of the RPA in the BOs.

This action implements additional gear modifications to remove the likelihood of jeopardy of North Atlantic right whales posed by the continued operation of the multispecies, spiny

dogfish, monkfish and lobster fisheries as required in the RPA that resulted from the BOs issued by NMFS in accordance with section 7 of the ESA. The objective of the RPA is to eliminate mortality and serious injuries of right whales, eliminate serious and prolonged right whale entanglements, and significantly reduce the total number of right whale entanglements in the multispecies, spiny dogfish, monkfish and lobster fisheries.

NMFS has taken steps to minimize the significant economic impact on small entities through this PA. The PA meets a portion of the RPA designed to remove jeopardy, consistent with the requirements of the ESA, while allowing fishing to continue and, therefore, reduce economic impacts compared to fishery closures.

The small entities affected by this final rule are gillnet and lobster trap fishermen. The geographic range of the gear modifications will include the northern inshore area, southern nearshore area, offshore area, and the Mid-Atlantic waters area. The potential sizes of the fleets impacted are: the northern inshore fleet is potentially as large as 5,982 vessels, the southern nearshore fleet is potentially as large as 222 vessels, the offshore fleet is potentially as large as 172 vessels, and the Mid-Atlantic fleet is potentially as large as 625 vessels. This action contains no new reporting or record-keeping requirements. However, it does require modifications to lobster and sink gillnet gear. There are no relevant Federal rules that duplicate, overlap, or conflict with this final rule.

NMFS received only one public comment relating to the economic impacts of this final rule. This comment was considered by NMFS before it approved this final rule, and is characterized and responded to by NMFS in the ''Comments and Responses'' section of the preamble to this final rule, as comment/response number one. No changes to this final rule were made as a result of the comment received.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS determined that this action is consistent to the maximum extent practicable with the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. No state disagreed with our conclusion that this final rule is consistent with the enforceable policies of the approved coastal management program for that state.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

This final rule refers to a collection-of-information requirement subject to the Paperwork Reduction Act, namely a gear marking requirement, which has been previously approved by OMB under control number 0648–0364. The public reporting burden for this requirement is estimated to average .6 minutes per line. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

This final rule implements a portion of the RPA, which resulted from ESA section 7 consultations on three FMPs for the monkfish, spiny dogfish, and Northeast multispecies fisheries, and the Federal regulations for the American lobster fishery. This final rule implements a component of the RPA contained in the BOs issued by NMFS on June 14, 2001. Therefore, no further section 7 consultation is required.

This final rule contains policies with federalism implications that were sufficient to warrant consultations and preparation of a federalism summary impact statement under Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs provided notice of the proposed action to the appropriate official(s) of affected state, local and/or tribal government in October 2001. No comments on the federalism implications of the proposed action were received in response to the October 2001 letter.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Fisheries, Marine mammals, Reporting and record keeping requirements.

Dated: December 31, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1371 *et seq.*

2. In § 229.2, a definition of ''Neutrally buoyant line'' is added in alphabetical order to read as follows:

§ 229.2 Definitions.

* * * * *

Neutrally buoyant line means line with a specific gravity near that of sea water, so that the line neither sinks to the ocean floor nor floats at the surface, but remains close to the bottom.

* * * * *

3. In § 229.3, paragraph (k) is revised to read as follows:

§ 229.3 Prohibitions.

* * * * *

(k) It is prohibited to fish with gillnet gear in the areas and for the times specified in § 229.32(b)(2), (f)(1)(i), and (f)(1)(ii) unless the gear complies with the closures, marking requirements, modifications, and other restrictions specified in § 229.32(b)(3)(i), (b)(3)(ii), and (f)(2) through (f)(3)(iii).

* * * * *

4. Section 229.32 is amended by adding a note to the end of the section; revising the heading of the introductory text of paragraph (c)(5)(ii)(A); and revising paragraphs (c)(5)(ii)(A)(*2*), (c)(8)(ii), (c)(9)(i), (c)(9)(iii), (c)(9)(iv), (d)(7), and (d)(8) to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(c) * * *

(5) * * *

(ii) * * *

(A) *Weak links on all buoy lines.*

* * *

* * * * *

(*2*) The breaking strength of these weak links may not exceed 2,000 lb (906.9 kg).

* * * * *

(8) * * *

(ii) *Area-specific gear requirements for the restricted period—* (A) *Restricted period.* The restricted period for Southern Nearshore Lobster Waters is year round unless the Assistant Administrator revises this period in accordance with paragraph (g) of this section.

(B) *Gear requirements.* No person may fish with lobster trap gear in the Southern Nearshore Lobster Waters Area during the restricted period unless

that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal lobster trap gear requirements in paragraph (c)(1) of this section, and the following gear requirements for this area, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(*1*) *Buoy Line Weak Links.* All buoy lines must be attached to the main buoy with a weak link placed as close to each individual buoy as operationally feasible that meets the following specifications:

(*i*) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(*ii*) The breaking strength of this weak link may not exceed 600 lb (272.4 kg).

(*iii*) Weak links must be designed such that the bitter end of the buoy line is clean and free of knots when the link breaks. Splices are not considered to be knots for the purpose of this provision.

(*2*) [Reserved]

(9) * * *

(i) Through December 31, 2002, all buoy lines must be 7/16 inches (1.11 cm) or less in diameter.

* * * * *

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

(iv) All ground lines must be comprised entirely of sinking and/or neutrally buoyant line.

* * * * *

(d) * * *

(7) *Mid-Atlantic Coastal Waters Area*—(i) *Area.* The Mid-Atlantic Coastal Waters Area consists of all U.S. waters bounded by the line defined by the following points: The southern shore of Long Island, NY, at 72° 30′ W. long., then due south to 33° 51′ N. lat., thence west to the North Carolina-South Carolina border, as defined in § 229.2.

(ii) *Area-specific gear requirements.* No person may fish with anchored gillnet gear in the Mid-Atlantic Coastal Waters Area unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in paragraph (d)(1) of this section, and the following area-specific requirements, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(A) *Buoy line weak links.* All buoy lines must be attached to the main buoy with a weak link placed as close to each individual buoy as operationally feasible that meets the following specifications:

(*1*) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: Swivels, plastic weak links, rope of appropriate breaking strength, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(*2*) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(*3*) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered to be knots for the purposes of this provision.

(B) *Net panel weak links.* All net panels must contain weak links that meet the following specifications:

(*1*) Weak links must be inserted in the center of the floatline of each 50-fathom (300-ft or 91.4-m) net panel in a net string or every 25 fathoms for longer panels.

(*2*) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(C) *Tending/anchoring.* All gillnets must return to port with the vessel or be anchored at each end with an anchor capable of the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor.

(8) *Gillnet Take Reduction Technology List.* The following gear characteristics comprise the Gillnet Take Reduction Technology List:

(i) All buoy lines are attached to the buoy line with a weak link having a maximum breaking strength of up to 1,100 lb (498.8 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(ii) Weak links with a breaking strength of up to 1,100 lb (498.8 kg) must be inserted in the center of the floatline (headrope) of each 50 fathom net panel or every 25 fathoms for longer panels.

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

* * * * *

Note to § 229.32: Additional regulations that affect fishing with lobster trap gear have also been issued under authority of the Atlantic Coastal Fisheries Cooperative Management Act in part 697 of this title.

[FR Doc. 02–273 Filed 1–9–02; 8:45 am]

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV01–987–1 FR]

Domestic Dates Produced or Packed in Riverside County, California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the California Date Administrative Committee (Committee) for the 2001–02 and subsequent crops years from $0.10 to $0.25 per hundredweight of dates handled. The Committee locally administers the marketing order that regulates the handling of dates produced or packed in Riverside County, California. Authorization to assess date handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: January 11, 2002.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey St., suite 102B, Fresno, CA 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dates beginning on October 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2001–02 and subsequent crop years from $0.10 per hundredweight to $0.25 per hundredweight of assessable dates handled.

The California date marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and producer-handlers of California dates. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–99 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by the USDA upon recommendation and information submitted by the Committee or other information available to the USDA.

The Committee met on August 16, 2001, and unanimously recommended 2001–02 expenditures of $90,800 and an assessment rate of $0.25 per hundredweight of dates handled. In comparison, last year's budgeted expenditures were $116,800. The recommended assessment rate of $0.25 is $0.15 higher than the rate currently in effect. The higher assessment rate is needed to offset a reduction in the Committee's reserve funds and a reduction in surplus funds available to the Committee from the sale of cull dates. Proceeds from the sales of cull dates are deposited into the surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets.

Last year, the Committee applied $15,000 of surplus account monies to cover surplus pool expenses. Based on

a recent trend of declining sales of cull dates over the past few years, the Committee expects the surplus pool share of expenses during 2001–02 to be $5,000, or $10,000 less than expected during 2000–01. Hence, the revenue available from the surplus pool to cover Committee expenses during 2001–02 is expected to be less than last year. To offset this reduction in income, the Committee recommended increasing the assessment rate, using $20,550 from its administrative reserves, and $250 in interest income to fund the 2001–02 budget.

The major expenditures recommended by the Committee for the 2001–02 year include $54,700 in salaries and benefits, $3,900 in office administration, $30,200 in office expenses, and $2,000 for contingencies. Budgeted expenses for these items in 2000–01 were $54,100 in salaries and benefits, $18,000 in office administration, $39,700 in office expenses, and $5,000 for contingencies.

The assessment rate recommended by the Committee was derived from applying the following formula where:

A = 2001–02 surplus account ($5,000);
B = amount taken from administrative reserves ($20,550);
C = 2001–02 interest income ($250);
D = 2001–02 expenses ($90,800);
E = 2001–02 expected shipments (260,000 hundredweight);
(D − (A + B + C) ÷ E = $0.25 per hundredweight.

Estimated shipments should provide $65,000 in assessment income. Income derived from handler assessments, the surplus account (which contains money from cull date sales), and the administrative reserves should be adequate to cover budgeted expenses. Funds in the reserve are expected to total about $20,800 by September 30, 2001, and therefore will be less than the maximum permitted by the order (not to exceed 50% of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c)).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 producers of dates in the production area and approximately 10 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts are less than $5,000,000. Five of the 10 handlers (50%) shipped over $5,000,000 of dates and could be considered large handlers by the Small Business Administration. Five of the 10 handlers shipped under $5,000,000 of dates and could be considered small handlers. The majority of California date producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent crop years from $0.10 per hundredweight to $0.25 per hundredweight of assessable dates handled. The Committee unanimously recommended 2001–02 expenditures of $90,800 and an assessment rate of $0.25 per hundredweight. The assessment rate of $0.25 is $0.15 higher than the rate currently in effect. The quantity of assessable dates for the 2001–02 crop year is estimated at 260,000 hundredweight. Thus, the $0.25 per hundredweight rate should provide $65,000 in assessment income and, in conjunction with other funds available to the Committee, be adequate to meet this year's expenses. Funds available to the Committee include income derived from assessments, the surplus account (which contains money from cull date sales), and the administrative reserves.

The higher assessment rate is needed to offset a reduction in the Committee's reserve funds and an expected reduction in surplus funds available to the Committee from the sale of cull dates. Proceeds from the sales of cull dates are deposited into the surplus account for subsequent use by the Committee. Last year the Committee applied $15,000 of surplus account monies to cover surplus pool expenses. Based on a recent trend of declining sales of cull dates over the past few years, this year the Committee expects to apply $5,000 to the budget from the sale of cull dates.

The major expenditures recommended by the Committee for the 2001–02 year include $54,700 in salaries and benefits, $3,900 in office administration, $30,200 in office expenses, and $2,000 for contingencies. Budgeted expenses for these items in 2000–01 were $54,100 in salaries and benefits, $18,000 in office administration, $39,700 in office expenses, and $5,000 for contingencies.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $90,800 which included increases in salaries and benefits and administrative expenses. Prior to arriving at this budget, the Committee considered alternative expenditure levels, including a proposal to not fund a compliance officer position, but determined that expenditures for the position were necessary to promote compliance with program requirements. The assessment rate of $0.25 per hundredweight of assessable dates was then determined by applying the following formula where:

A = 2001–02 surplus account ($5,000);
B = amount taken from administrative reserves ($20,550);
C = 2001–02 interest income ($250);
D = 2001–02 expenses ($90,800);
E = 2001–02 expected shipments (260,000 hundredweight);
(D − (A + B + C)) ÷ E = $0.25 per hundredweight.

Estimated shipments should provide $65,000 in assessment income.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2001–02 season could range between $30 and $75 per hundredweight of dates. Therefore, the

estimated assessment revenue for the 2001–02 crop year as a percentage of total grower revenue will be less than one percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 16, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on October 15, 2001 (66 FR 52363). Copies of the proposed rule were also mailed or sent via facsimile to all date handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending November 14, 2001, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving 2001–02 crop commodity from growers, the fiscal period began October 1, and the rate applies to all dates received during the 2001–02 and subsequent seasons. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2001, an assessment rate of $0.25 per hundredweight is established for California dates.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–580 Filed 1–9–02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 381 and 441

[Docket No. 01–046N]

RIN 0583–AC87

Retained Water in Raw Meat and Poultry Products: Suspension of Regulation

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final Rule; Suspension of regulation.

SUMMARY: The Food Safety and Inspection Service (FSIS) is suspending until January 9, 2003, regulations that limit water retained by raw meat and poultry products from post-evisceration processing to the amount that is unavoidable in meeting applicable food safety requirements and that require labeling for the amount of water retained. The original effective date of these final regulations was January 9, 2002. FSIS is taking this action in response to a petition from four trade associations representing the meat and poultry industries. The petitioners requested the effective date be extended until August, 2004. However, FSIS has decided that a one-year suspension of the regulation will allow the meat and poultry industry sufficient time to complete necessary experimentation, including microbial testing and chilling system trials under FSIS-accepted data collection protocols; to fine-tune and stabilize newly adjusted processes; and to conduct regular measurements of retained water at packaging. Suspension of the regulation also will provide members of the meat and poultry industry sufficient time to order new supplies of labels with statements reflecting the amount of retained water in their raw products.

The final rule promulgating the retained water regulations also made numerous technical amendments in the sections of the poultry products inspection regulations that concern poultry chilling practices. The effective date of these amendments will remain January 9, 2002.

DATES: The effective date of the amendments of 9 CFR 381.65 and 381.66 published January 9, 2001 (66 FR 1750), as corrected by the **Federal Register** notice published April 17, 2001, at 66 FR 19713–19714, is and remains January 9, 2002. 9 CFR part 441 is suspended from January 9, 2002, until January 9, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, OPPDE, FSIS, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–3219.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 2001, FSIS published a final rule in the **Federal Register** (66 FR 1750) that, among other things, promulgated regulations limiting the amount of water that could be retained by raw, single-ingredient, meat and poultry products as a result of post-evisceration processing, such as carcass washing and chilling. Under these regulations (codified at 9 CFR 441.10), raw livestock and poultry carcasses and parts will not be permitted to retain water resulting from post-evisceration processing unless the establishment preparing those carcasses and parts demonstrates to FSIS, with data collected under a written protocol, that any water retained in the carcasses and parts is an inevitable consequence of the

process used to meet applicable food safety requirements. The labels of products covered by the rule must bear statements indicating the maximum percentage of retained water in the products. On June 29, 2001, FSIS issued instructions to its personnel (FSIS Notice 22–01) on procedures, including those for review of data collection protocols, that are to be followed during the period before the new water retention regulations become effective.

In the **Federal Register** of October 17, 2001 (66 FR 52715), FSIS published a notice on a petition by the National Chicken Council, the National Turkey Federation, the National Food Processors Association, and the American Meat Institute requesting that FSIS postpone until August 1, 2004, the effective date of the water retention regulations.

The petitioners assert that postponement of the effective date is necessary because affected companies will not be able to comply with the regulations until they have completed several steps for which the Agency did not allow sufficient time. The petitioners maintain that some companies will not be able to begin data collection under FSIS-accepted data collection protocols until late 2001; that testing to determine the relationship between *Salmonella* and water retention levels and seasonal variation in the moisture content of poultry will not be completed until early 2003; and that, after such testing, changes in labels and the labeling of many products affected by the final rule cannot be completed until mid-2004.

Comments on the Industry Petition

In the October 17, 2001, **Federal Register** notice, FSIS posed five questions:

1. Did the Agency allow the regulated industry sufficient time—one year from publication of the final rule—to prepare for implementation? Explain why the time for implementation was adequate or inadequate.

2. Is available laboratory capacity sufficient or insufficient to enable the industry to comply with the new regulations by the effective date?

3. Is there additional information on the time necessary to produce new labels for retained-water products that the Agency should consider?

4. Would postponement of the effective date be fair or unfair to anyone and, if so, how?

5. Would postponement of the effective date of the new retained water regulations (9 CFR 441.10) affect consumers and, if so, how?

In posing these questions, FSIS was seeking additional information not already available to help the Agency decide the matter addressed by the petition.

Most of the commenters responded to some or all of the five questions that FSIS posed in the notice. The Agency received 41 comments in response to the **Federal Register** notice on the petition. Thirty-seven comments were from poultry processing establishment managers or other poultry company officials. All favored postponing the effective date of the retained water regulations. A meat and poultry industry association also filed a comment supporting postponement. Two cattle producer associations and an FSIS employee opposed postponement.

Comments Supporting the Petition

Commenters that supported postponement of the effective date of the final rule stated that the time allowed the industry to prepare for implementation—one year—was insufficient. They noted that adequate guidelines for developing a moisture data collection protocol were not available from FSIS until summer 2001 and waiting for the FSIS to review protocols voluntarily submitted to the Agency consumed additional time. After completion of experimentation under the protocol, the commenters claimed, additional time would be necessary to develop a process control program and make the necessary adjustments to ensure its effectiveness.

Comments asserted that companies would have to have 2-to-12 months to exhaust their supplies of labeled packaging materials already in stock. Also, once reliable data on the amount of retained water in raw products had been developed, 2 to 3 months would be necessary for label suppliers to prepare new plates and labels for the products. Commenters noted that the development of new pre-labeled packaging for poultry products is a two-stage process involving, first, the development of new plates and second, the printing of new labels. They stated that there is insufficient label-making capacity in the industry to meet the demands for new labels of all companies trying to comply with the new regulations by the existing effective date.

Several managers of one firm argued that the short, one-year implementation time provided by the final rule would effectively force companies to label parts with ''up to X% retained moisture'' with X = the whole-bird retention amount. The reason for this is that the amount of retained moisture in whole birds is easier to determine than that for parts. But that amount is also likely to be significantly higher than the retention amount for parts.

The commenters that favored postponement of the effective date of the final rule argued that laboratory capacity available to establishments was insufficient for them to be able to meet the effective date. Most commenting on this issue said that their establishments do not have on-premises capability to do *Salmonella* testing and that they had no drying oven to use in the oven-drying test for total moisture. They also stated that they needed to collect additional samples to determine whether they would be meeting generic *E. coli* process control criteria under the new rule.

Those supporting the petition tended to argue that postponement would be fair to both consumers and the industry. Not postponing could result in a virtual shutdown of the industry because product would suddenly be misbranded and could not be sold legally. As a result, with the amount of animal protein product available to consumers decreasing, such product would only be available to them at higher prices. Also, a shutdown in the industry would affect farmers, feed suppliers, truckers, warehouses, and many others. Unemployment would increase. Reduced tax revenues would adversely affect the Government.

Those supporting the petition argued that postponement of the effective date would be fair to consumers. Consumers would continue to have protein product choices in the marketplace. The effect of the postponement on their budgets would be minimal. They would still be able to make informed purchasing decisions based on past industry performance. And they would experience no change in the acceptability and safety of the products.

Some poultry company officials argued that postponement would allow time for industry and Government to develop ''best practices,'' with the goal of providing more accurate information to consumers.

Some poultry company officials argued that non-poultry entity arguments, especially regarding the alleged unfairness to red meat of allowing retained water in poultry products, are political and not supportable without testing.

The association representing both meat and poultry companies suggested that precautions taken since the recent anthrax attacks through the mail may have resulted in delayed delivery of some draft protocols to FSIS, and thus their review.

Commenters Opposing Postponement

Those opposing postponement of the effective date of the final rule argued that the issue of allowing retained water in poultry products has been before FSIS for more than seven years. To delay implementation of the new regulations would be to perpetuate an inequity.

Moreover, these comments pointed out, the industry has known since at least September 1998 that changes in the regulations were imminent. These comments stated that some companies have prepared for the January 9, 2001, changes and will be ready, while other companies have deliberately avoided preparing in hopes that the effective date would be postponed and current practices continued.

These commenters said that the time frame for implementing the final rule was adequate and that the poultry products industry is only dragging its feet. The trade association representing cattle producers agreed with these commenters and added that since the poultry industry and FSIS had in July 2001 finally reached agreement on a protocol framework for determining retained water in products, the effective date for the entire poultry industry should be no later than July 2002.

Another opponent of the petition stated that available testing facilities are adequate. Many establishments are capable of performing necessary tests.

One opponent of the petition stated that simple labeling changes are often made at the establishment and can be effected in a few minutes. Elaborate labeling changes can be accomplished in just a few days.

Several opponents of the petition said that postponement of the effective date of the final rule would be unfair both to consumers and to the red meat industry. The poultry industry would benefit by continuing to be able to sell water to consumers at poultry prices.

One opponent of the petition stated that postponement of the effective date would certainly affect consumers. Since July 1997, there has been no regulatory limit on water retention in most raw poultry products; therefore, the consumer does not know how much water the product may retain from processing because the amount is not on the label. This commenter calculated that a postponement of 660 days would allow an average large poultry establishment to gain $30.2 million by in effect selling excess water without being held accountable for doing so.

One of the cattle producer associations stated that FSIS should acknowledge that the poultry industry has made dramatic progress in reducing *Salmonella* prevalence in the wake of the PR/HACCP rulemaking. Therefore FSIS should not force the poultry industry to perform a complicated analysis of the relationship between water retention levels and *Salmonella* prevalence at this time. Rather, the Agency should focus on requiring the poultry industry to minimize the amount of retained water in meeting the time/temperature chilling requirements for poultry and HACCP requirements.

This association said that, given the fact that the poultry industry and FSIS did not agree on a data-collection protocol framework until July 2001, labeling should be in place by January 2002 for those companies that are capable of meeting that deadline and by July 2002 for the whole industry.

FSIS' Response to the Petition and Comments

Having considered the petition and the comments received, the Agency differs somewhat with the industry on several matters addressed in the petition. Among these are: the effect of FSIS review of data collection protocols on poultry industry chilling system tests and data collection; the burden that testing associated with implementation of the new regulations will impose on industry laboratory capacity; the need for additional data collection to account for seasonal variation in naturally occurring moisture in poultry; and, moisture levels having been determined, the need for up to 14 additional months for labels to be prepared for all affected products.

Review of Protocols

Although FSIS has established a procedure for Agency review of protocols submitted by industry, the new retained water regulations merely require an establishment subject to the regulations to notify the Agency and make the protocol available for review and gives the Agency 30 days to object to or require the establishment to make changes in the protocol. The regulations do not literally preclude the establishment from undertaking data collection under a sound protocol as soon as the protocol is developed. An establishment's decision to wait until it receives a ''no objection'' letter from the Agency is not mandated.

On the point that the industry has had only since July 2001 to begin data collection under acceptable protocols, it is the case that questions about a ''model'' protocol were resolved by that time. However, the Agency's expectations respecting the necessary elements of such a protocol were known well before then. The Agency has encouraged the industry to undertake data collection since at least December 9, 1997, when FSIS published a **Federal Register** notice (62 FR 64767) detailing the elements of a data collection protocol for water retention in raw meat and poultry products.

In its petition, the industry asserts that because of the time needed for FSIS review of protocols, not all establishments will be able to begin data collection on retained water until December 2001. At present, FSIS has reviewed well over 200 protocols (238 by December 6, 2001) that were submitted for the most part by poultry slaughtering establishments. As the review of submitted protocols has proceeded, the review time per protocol has decreased and the review procedures have been perfected to the point that the Agency's Office of Policy, Program Development, and Evaluation will soon be able to turn over protocol review responsibilities to the Office of Field Operations.

FSIS understands that most establishments whose protocols have been reviewed are now well into the process of collecting retained water data and will soon have reliable information to support new product labels. This fact indicates to us that a typical poultry establishment may not need more than a few weeks to carry out trials of its chilling system using different sets of variables and obtain data that is sufficient to support retained water labeling.

Laboratory Capacity

Since the protocol review process is resulting in a phased beginning of data collection in the industry, the laboratories employed by the establishments can be expected to adjust to the gradually rising load on their analytical resources. Nor do the retained water regulations entail laboratory testing on a grandiose scale. Consequently, the scenario of an over burdened industry laboratory capacity as envisioned by the industry petition should not develop.

In their comments on the petition, many establishments expressed an interest in the oven drying method discussed in the final rule. These establishments noted that few of their laboratories were equipped with the apparatus necessary to apply the method. The need to send samples to an outside laboratory to obtain definitive total and retained water measurements would result in delaying results. Further, with many establishments requiring the same tests, the laboratory capacity available to the industry for

these tests would quickly become overburdened.

FSIS observes that, although the Agency does not discourage them from doing so, FSIS is not requiring establishments to perform microbiological testing on the scale contemplated by the industry in its petition. Nor does FSIS specifically require the use of the oven-drying method to determine the moisture content of raw products. FSIS merely has presented the method as the one that the Agency plans to use in its in-distribution sampling of products subject to the new regulations. Establishments may use other procedures to which they may be more accustomed to determine retained water in their products. For example, they may weigh product before and after chilling or other processing to determine whether the product weight has increased, and use this difference as a basis for calculating water retention. But they are not restricted to using any one method.

Seasonal variation: Regarding the effect of seasonal variation in the naturally occurring moisture in poultry on the total amount of water in raw products, FSIS disagrees with the industry's contention. The industry states in its petition, and supplies a chart to illustrate, that in some months naturally occurring moisture levels in poultry are higher than the annual mean, while in other months the levels are below the mean. Therefore, according to the petition, it will be necessary for any given establishment to have a full year's worth of data to be able to know precisely, on an on-going basis, what the total amount of water, and hence the retained water level in its product, will be.

In FSIS Notice 22–01 discussed above, FSIS states that the Agency will enforce the labeling provisions of the regulations in a manner similar to its enforcement of the nutrition labeling regulations. That is, FSIS plans to allow the labeled amount of retained water to vary by as much as 20 percent of the actual amount of retained water in the product. Such a variation is typically allowed to account for such factors as seasonal fluctuations in the occurrence of specific nutrients in raw food ingredients. The industry has indicated in its petition that the seasonal variation in poultry carcass yield, which is partly affected by changes in the amount of naturally occurring moisture in poultry, is typically just a small percent of yield weight. Since retained water is computed as a percent of the product weight, a small percentage point change in the natural product weight should not lead to discrepancies between actual and labeled retained water amounts that would ordinarily exceed the 20 percent allowable variation. Thus, it is unlikely that the variability in raw product moisture content would be so great as to cause FSIS to take an enforcement action against the establishment. That being the case, while more precise data are desirable, the need to collect additional data on seasonal variation in naturally occurring water should not influence a decision on the effective date of the retained water regulations.

Label Changes

The industry says in its petition that not until early 2003 will all establishments know the amount of retained moisture in their products. Also, according to the petition, the label printing capacity available to the industry is limited by the fact that only a few hundred label changes a month can be made, while about 6,500 poultry labels will have to be changed. Therefore, argues the industry, not until summer 2004 can new labels be printed for all establishments.

FSIS believes that most establishments will know the minimized levels of retained water in their products well before 2003, and indeed, some establishments already are in a position to change their labels. FSIS does not think the industry will have to study seasonal variation in naturally occurring moisture in poultry for a full year before it will be in a position to include retained water statements on product labels. Further, as one commenter on the petition noted, labeling changes are often made at the establishment. Simple labeling changes can be made in a few minutes; elaborate labeling changes can be accomplished in a few days. Of course, where printing plates for labels must be retooled, the change may take longer. Extending the effective date for one year should allow all establishments ample time to have the necessary changes made in their labels.

FSIS therefore thinks that most necessary product label changes can be made in the course of a year. Thus, FSIS does not think it necessary to postpone the effective date of the regulation for an extended period to allow for the completion, first, of seasonal variation studies and then of label changes.

FSIS' Response to Comments Opposing the Petition

FSIS agrees that postponement of the petition until August 2004 is not warranted. However, as discussed in the following section of this notice, FSIS believes that a one-year postponement is necessary and appropriate. In response to the comments concerning inequity between the meat and poultry industry and benefits to consumers resulting from the water retention regulations, FSIS does not believe that these comments are relevant to the date of enforcement of the regulations. With regard to the comments on labeling changes, FSIS agrees that an extension until August 2004 is not necessary. However, as discussed above, FSIS recognizes that if printing plates for labels must be retooled, the change may take longer than the opposing comments suggested. Finally, in response to the comment that FSIS should not force the poultry industry to perform a complicated analysis of the relationship between water retention levels and *Salmonella* prevalence at this time and that the Agency should focus instead on requiring the poultry industry to minimize the amount of retained water in meeting the time/temperature chilling requirements for poultry and HACCP requirements, FSIS believes the type of hazard most likely to be identified as susceptible of being controlled by the post-evisceration processes envisioned by the retained water regulations is a biological hazard. Similar arguments for postponement of the effective date of the regulations could be made on the basis of the need for microbial tests to verify HACCP controls as for microbial tests to verify that *Salmonella* performance targets are being met. Also, it should be noted that the Agency is developing a proposed rule to eliminate the time/temperature chilling requirements for poultry.

FSIS's Reasons for Granting a One-Year Suspension

FSIS is granting a one-year suspension of the water retention regulations in 9 CFR 441 because the Agency recognizes that some establishments in the poultry industry are not yet in a position to operate in compliance with the new regulations. Also, some small meat slaughtering and processing operations have yet to determine whether or not they are subject to the regulations and need some guidance respecting the kind of information they need to have to demonstrate that their raw products do not retain water. With additional time, if these establishments find that they are subject to the regulations, they will be able to take steps to ensure that they are in compliance with it.

A one-year suspension will allow the industry sufficient time to complete necessary experimentation, including microbial testing and chilling system trials, under FSIS-accepted data

collection protocols; to fine-tune and stabilize newly adjusted processes; and to conduct regular measurements of retained water at packaging. Members of this industry would have sufficient time to order new supplies of labels with statements reflecting the amount of retained water in raw products.

FSIS did not agree that an extension of the effective date until August 1, 2004, would be necessary for the reasons explained above in FSIS' response to the petition and comments. First, FSIS does not believe that industry laboratory capacity would become overburdened as a result of this rule. Second, FSIS does not believe that establishments would need to have a full year's worth of data on seasonal variation in naturally occurring water to be able to comply with the labeling requirements in the rule. Finally, FSIS believes that most necessary product label changes can be made in the course of a year.

In summary, FSIS believes that a one-year suspension of the water retention provisions in 9 CFR part 441 is appropriate and necessary. However, FSIS does not believe a further suspension would be warranted and does not intend to suspend the regulation beyond January 9, 2003.

Technical Amendments

The final rule promulgating the retained water regulations made numerous technical amendments in the sections of the poultry products inspection regulations that concern poultry chilling practices to improve consistency with the Pathogen Reduction/Hazard Analysis and Critical Control Points regulations, eliminate ''command- and control'' features, and reflect current technological capabilities and good manufacturing practices. FSIS also revised the definition of ''ready-to-cook'' poultry to account for the elimination of the requirement to remove kidneys from mature birds and removed several redundant provisions from the poultry products inspection regulations. These technical amendments were not controversial, and the effective date of these amendments will remain January 9, 2002.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the meeting and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect, or would be of interest to, our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

For the reasons set out in the preamble, 9 CFR Part 441, added at 66 FR 1771, January 9, 2001, is suspended from January 9, 2002, until January 9, 2003.

Done at Washington, DC, on January 8, 2002.

Margaret O'K. Glavin,

Acting Administrator.

[FR Doc. 02–738 Filed 1–8–02; 3:58 pm]

BILLING CODE 3410–DM–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052–AB93

Loan Policies and Operations; Definitions; Loan Purchases and Sales

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, we, or our) issues this final rule to amend our loan participation regulations. This final rule will enable Farm Credit System (FCS or System) institutions to better use existing statutory authority for loan participations by eliminating unnecessary regulatory restrictions that may have impeded effective participation relationships between System institutions and non-System lenders. We believe that these regulatory changes will improve the risk management capabilities of both System and non-System lenders and thereby, enhance the availability of reliable and competitive credit for agriculture and rural America.

EFFECTIVE DATE: This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Mark L. Johansen, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444.

Or

James M. Morris, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION

I. Objectives

Our objectives for this rule are to:

- Improve System institutions' ability to participate in today's loan participation market with both System and non-System lenders;
- Increase the flow of credit to agriculture and rural America; and
- Encourage improved working relationships between System institutions and non-System lenders.

The rule will help to achieve these objectives by:

- Removing two restrictive definitions of a ''loan participation'' which will permit System institutions to purchase or sell 100-percent loan participations;
- Removing the 10-percent retention requirement when loan servicing remains with a non-System lender; and
- Making technical and clarifying changes in the Federal Agricultural Mortgage Corporation's (Farmer Mac) participation authorities.

II. Background

Our existing rule limits the amount a System institution can participate in a non-System lender's loan to 90 percent of the outstanding principal when the non-System lender retains the servicing to the borrower. If the System institution acquires the servicing rights, it can participate in more of the loan, but is limited to an amount less than 100 percent of the outstanding principal due to the ''fractional undivided'' language contained in two regulatory definitions of ''loan participation.''

Our present regulations do not specifically refer to Farmer Mac as an ''other System institution'' for purposes of loan participation authorities because Farmer Mac's authority to buy, sell, hold, or assign loans was granted after the present regulations were written. These final regulations correct this omission.

III. Comments

On July 26, 2000, we published a proposed rule in the **Federal Register** to amend parts 614 and 619 of our regulations. *See* 65 FR 45931. We received 61 comment letters in response to our proposal. The majority of the comment letters were from boards of directors, management, or customers of System associations. We also received comments from five Farm Credit banks, two banking trade groups, and one community bank.

All but four of the comment letters supported the proposed rule. The four comment letters expressing concerns were from the banking trade groups, the community bank, and one Farm Credit bank. Comments opposing the proposed rule ranged from questioning FCA's authority to adopt the rule to expressing concerns that the proposed rule moves the System away from its cooperative principles. We did not receive any comments opposing the removal of the 10-percent retention requirement or the proposed technical and clarifying changes concerning Farmer Mac. After carefully considering the comments received, we are adopting the proposed rule without substantive change.

A. FCA's Authority To Revise the Loan Purchases and Sales Regulation

1. Participation Authority

The final rule eliminates two overly restrictive regulatory definitions in order to give System institutions the authority to buy and sell loan participations up to 100 percent of the outstanding principal. Some comment letters contend that the Farm Credit Act of 1971, as amended (Act) does not permit us to authorize the purchase and sale of 100-percent participations. FCA has the authority to define the meaning of the terms used in the Act. We previously adopted more narrow regulatory definitions of loan participations than we now believe is required by statute. The Act does not provide a specific definition of a loan participation other than that contained in section 3.1(11)(b)(iv), which specifically applies only to ''similar entity'' participations and does not limit the percentage of interest in a participation. We now have determined that we should remove these regulatory definitions and allow purchases and sales of 100-percent loan participations.

We previously restricted a loan participation to a ''fractional'' undivided interest, something less than 100 percent.[1] Prior to issuing the proposed rule last year, we reviewed this restrictive language and concluded that the Act does not require such a narrow definition. Section 1.5 of the Act provides that Farm Credit Banks, ''subject to regulation by the Farm Credit Administration, shall have power to * * * make, participate in, and discount loans'' and may ''participate with'' other financial institutions in loans authorized under the Act.[2] There are no statutory limitations on the percentage of a loan in which a Farm Credit bank may participate.[3] Similarly, sections 2.2 and 3.1 of the Act provide, respectively, that a production credit association may ''make and participate in loans'' and a bank for cooperatives may ''participate in loans,'' subject to regulation by the FCA. Nowhere does the Act provide that a participation interest must be less than 100 percent.

The present FCA regulatory definitions are overly restrictive and not consistent with current banking practices. In 1984, the Office of the Comptroller of the Currency (OCC) issued a banking circular[4] that provides that loan participations can include ''all or a portion'' of the loan. In addition, the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the OCC, and the Office of Thrift Supervision (OTS) issued an interagency statement on sales of 100-percent loan participations on April 10, 1997. The interagency statement provided guidance on the use of 100-percent loan participations in light of a 1992 court decision[5] that concluded that such participations did not involve the sale of securities under Federal securities laws. By recognizing 100-percent loan participations, the banking guidance effectively removed the fractional-interest characteristic as a defining feature of a loan participation.

Under the Act, System institutions have the authority to participate in loans. Because the Act does not limit the percentage of participations, we do not believe that this statutory authority should be interpreted to exclude 100-percent loan participations.

The final rule gives System institutions the freedom to exercise their statutory authority to acquire such participations by removing the regulatory definitions of ''loan participation'' from §§ 614.4325(a)(4) and 619.9195. By removing these restrictive definitions, we provide System institutions comparable flexibility afforded by the Federal Reserve, FDIC, OCC and OTS to commercial banks and thrift institutions. This will enable System institutions to make better use of their statutory authority, to cooperate and participate with non-System lenders, and to improve access to credit for agriculture and rural America.

Commenting on our proposed rule, a banking trade group argued that in the mid-1990's Congress explicitly denied a System attempt to increase its authority to purchase whole loans and to participate with non-System lenders in loans of up to 100 percent of the outstanding principal. At that time, the System's trade association, the Farm Credit Council (FCC), asked Congress to provide the System the authority to purchase ''whole'' loans from commercial banks. The document that the commenter cited referred to loan purchases, not loan participations. We found no evidence that the System's trade association included a request for 100-percent participation authority with their request for whole loan purchase authority.

2. Distinction Between Loan Participations and Loan Purchases

Several commenters apparently confused 100-percent loan participation authority with the authority to purchase and sell interests in ''whole loans.'' The Act recognizes these as separate and distinct authorities and specifically authorizes System institutions to purchase or sell participations. The authorities are separate regardless of whether the interests are 100 percent or something less.

Loan participations are a type of funding arrangement separate and distinct from either partial or whole loan purchases. The distinction centers around who retains the legal relationship with the borrower. In a loan purchase, part or all of the lending relationship transfers to the purchasing institution. By definition, a whole loan purchase includes not only the purchase

[1] We expressed this position in the preamble of the proposed Lending Authorities regulations (56 FR 2452, January 23, 1991).

[2] Section 1.5(16) of the Act authorizes FCS banks operating under title I to sell ''interests in loans'' to lenders that are not FCS institutions and expressly authorizes FCS banks to buy ''interests in loans'' from FCS institutions. Section 1.5(6) and section 1.5(12) separately grant express authority to ''participate'' in loans. Section 1.5(12) grants express authority to ''participate'' with ''lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title.''

[3] We are not aware of any legislative history that limits the percentage of authorized ''participations.''

[4] OCC–BC–181 ''Purchases of Loans in Whole or Part-Participations'' (August 2, 1984).

[5] *Banco Espanol De Credito* v. *Security Pacific National Bank,* 973 F.2d 51 (2nd Cir. 1992).

of the asset, but its cashflows, the legal relationship, and the servicing requirements. The relationship in a loan participation, regardless of the participation amount (100 percent or some amount less than 100 percent), consists only of cashflows from the loan and possibly the servicing rights for the loan. The legal lending relationship stays with the originating lender.

While 100-percent loan participations may resemble whole loan purchases in some respects, the financial markets recognize them as separate and distinct transactions. In addition, courts have recognized the legal distinction between participations and loan purchases and the separate legal effects of loan participation agreements.[6] Finally, other financial regulators recognize the legal distinctions between loan participations and selling whole loans, which involves the transfer of title.[7]

B. Participation Authority and Farmer Mac

The rule clarifies the authority of Farmer Mac and other System institutions to participate with each other. Some commenters argued that our proposal would duplicate Farmer Mac authorities and increase the risk to the System. Comment letters noted that selling loans to the secondary market through Farmer Mac provides liquidity and helps lending institutions manage portfolio concentrations. A banking trade group asserted that the ability of System institutions, acting as poolers, to purchase whole loans through the Farmer Mac I program provides the same benefit as this final rule would provide, but in a safer environment.

System institutions have several tools they can use to improve liquidity and manage their loan portfolios. Selling loans to the secondary market is one of these tools, but is not the answer to all of an institution's needs.

Pooling authorities and the ability to purchase or sell 100-percent loan participations serve different purposes. As a pooler, a System institution is a conduit between the originating lender and the secondary market through Farmer Mac. While the System institution, as pooler, would receive a fee for its services, it would not be able to use this activity as a risk mitigation tool, unless its loans were in the pool. On the other hand, if the institution purchased a loan participation, it would hold the participation interest in the loan on its books and be able to use the participation to mitigate risks in its portfolio.

More significantly, loan participations potentially involve more types of loans than are eligible under Farmer Mac authorities. Loans sold to Farmer Mac are restricted to first mortgage loans, but System institutions and non-System lenders can participate in other types of loans. This rule provides more options to the originating and participating lender. This will not only afford increased business opportunities but will also help lenders to mitigate portfolio and concentration risk and better manage liquidity. As a result, the authorities provided in this rule, along with the ability to sell mortgage loans through Farmer Mac, have the ability to increase the availability of credit to farmers, ranchers, agriculture, and rural America.

While we recognize System loan participation authorities may overlap with some of Farmer Mac's authorities, we do not believe our amended participation regulations will adversely impact Farmer Mac's operations. We note that Farmer Mac provided favorable comment on the proposed rule and did not indicate that provisions in the rule would be harmful.

C. Establishing Loan Participation Relationships

A Farm Credit Bank asserted that aggressive System institutions would retain independent contractors outside of their chartered territory to originate loans for them. The commenter stated that this rule along with the existing FCA regulation that permits System institutions to participate in loans outside their chartered territory without the concurrence of other FCS institutions (65 FR 24101, Apr. 25, 2000) would result in a *de facto* national charter in that a System institution could have lending relationships (in this case a participation relationship) outside its chartered territory.

This rule and the authority for System institutions to participate in loans outside their chartered territory without receiving consent does not result in a *de facto* national charter. FCA's removal of the concurrence requirement provided FCS institutions the ability to enter into less than 100-percent participation interests in loans originated outside of their chartered territory without receiving concurrence. The actual change that this rule adds is to our participation authorities and not to our loan origination authorities. Therefore, it does not result in a *de facto* national charter, as it does not provide System institutions the authority to make loans outside their chartered territory.

The FCC asked that System institutions be allowed to purchase participation interests in loans from private individuals. System institutions are authorized to purchase participation interests in loans from ''* * * lenders that are not Farm Credit institutions.'' We have previously defined the term ''other lenders'' in a preamble to an earlier rulemaking (57 FR 38237, Aug. 24, 1992) to include commercial banks, savings associations, credit unions, insurance companies, trust companies, agricultural credit corporations, incorporated livestock loan companies, and other financial intermediaries that extend credit as a regular part of their business. We reiterate our previous interpretation here with respect to the meaning of the term ''lender.''

D. Loan Participations and Cooperative Principles

Several commenters observed that when a System institution buys a loan participation the borrower does not obtain stock in the institution and is not afforded borrower rights under the Act. Commenters stated that a System institution could have a portfolio in which the majority of its loans were participations. Commenters argued that these loans do not contribute capital, that borrowers holding these loans do not participate in System governance, and that these borrowers are not afforded the rights given to System borrowers by Congress. The comment letters argued that there would be a

[6] For example, in *McVay* v. *Western Plains Corp.,* 823 F.2d 1395 (10th Cir., 1987), the court stated: ''In general, loan participations are a common and wholesome credit device . . . . In a typical loan participation . . . . the lead bank enters into participation agreements with the other banks but acts in relation to the loan and borrower . . . For example, the lead bank will appear as the only party on the note and mortgage. It generally also services the loan, which includes the right to make decisions concerning acceleration, foreclosure, redemption, and deficiencies.'' Additionally, *In re Okura & Co.,* 249 B. R. 596 (Bankr. S.D.N.Y. 2000), concluded that the participation agreement between the lead bank and another lender was a ''true loan participation'' that did not result in a partial assignment of the lead lender's right to payment from the debtor or otherwise give the participating bank lender any right to payment from the debtor. Therefore, the participant did not have a ''claim'' that would make it a ''creditor'' in the debtor's bankruptcy proceeding. In discussing the characteristics of loan participations, the court stated, ''The most common multiple lending agreement is the loan participation agreement, which involves two independent, bilateral relationships; the first between the borrower and the lead bank and the second between the lead bank and the participant. As a general rule, the participants do not have privity of contract with the underlying borrower.''

[7] For example, a National Credit Union Administration letter, dated September 18, 1996, refused to permit the use of participations to increase a credit union's lending to one member, stating: ''A credit union may not circumvent this restriction by selling loan participations because title to the loan normally does not transfer to the purchasers. Since the credit union retains title, selling loan participations does not reduce the ratio between the loan to the member and the credit union's reserves.''

disparity between the System's treatment of those who borrow from the System and those in whose loans the System participated.

In response, we note that the System institutions may not exercise their participation authority in a manner that impedes service to their territory. Each institution's board of directors must establish limits on the amount of loan participations they can purchase.[8] The preamble that proposed the present § 614.4325(c)(4) stated that it ''* * would require that institution policies specify limits on the aggregate amount of interest on loans that may be purchased, including participation interests, sufficient to ensure that the primary mission of the institution to provide credit directly to agriculture is not compromised.'' (*See* 56 FR 2452, Jan. 23, 1991) In response to the issues raised in the comment letters, we reaffirm that each institution needs to establish these limits and that FCA will continue to evaluate the institution's participation programs as a part of our examination process.

In response to commenters' concerns about System governance and borrower rights, borrowers who obtain loans from another lender instead of a System institution are not, in fact, System ''borrowers.'' This remains true even if a System institution later buys a 100-percent participation interest in a loan from a non-System lender. A loan participation is a lender-to-lender transaction and, thus, borrowers remain obligated to the loan originator. When a borrower receives a loan from a non-System lender, that borrower has no legal entitlement to System governance rights or System borrower rights. The purchaser of a participation interest does not have a legal relationship with the borrower.

E. Safety and Soundness

We view safety and soundness controls as a cornerstone to an effective loan participation program. Lenders should use loan participations primarily as a risk diversification tool. While this rule may increase the System's loan participation activity, we expect System institutions to maintain appropriate risk levels and to implement the provisions allowed by this rule in a safe and sound manner. Commenters also discussed this concern. Institutions should not use this authority in a manner that results in an unsafe and unsound increase in commodity or geographical risk. We expect a thorough due diligence effort at the outset of any participation relationship.

A participation relationship is a direct relationship between the originating lender and the purchasing institution and not between the purchasing institution and the borrower. Therefore, prudent underwriting procedures dictate that the purchasing institution must complete a thorough due diligence analysis of the originating lender and the loan, or pool of loans, being participated. We outline specific requirements in § 614.4325(e) and provide additional guidance in FCA Bookletter (BL–027) which was sent to all Farm Credit institutions on March 27, 1996, to ensure the loan or pool of loans being participated in is of sound quality and that the originating lender has the capacity to manage the risk and exercise the responsibilities retained as the seller of a participation.

The responsibility of the System institution as purchaser does not end with the initial due diligence analysis. Following FCA guidance and sound lending practices, System institutions should complete a periodic analysis of the originating lender to ensure that the lender remains able to manage the risk and exercise its responsibilities. Failure to complete this due diligence prior to purchasing a loan participation and on a periodic basis may be considered an unsafe and unsound practice.

As in the preamble to the proposed rule, we again emphasize the importance of appropriate management of loan participations in ensuring safety and soundness as follows.

1. Controlling Risk of Participations

Risk control issues arise with loan participations. Some of these are typical of any credit arrangement. However, 100-percent participations can increase certain types of risks if not controlled and managed appropriately. Therefore, System institutions should take extra care in developing the policies and procedures for their participation programs, especially if they intend to buy 100-percent participations. An institution's policies and procedures and participation agreements should, at a minimum, address the following:

- *Credit risk*—The participant depends on the originating lender to obtain, develop, and evaluate the relevant information about the borrower and the structure of the credit.
- *Legal risk*—The originating lender typically prepares the documentation for the loan and perfects any security interests. The participant generally has a share of the rights of the originating lender. If deficiencies exist, the participant's rights may be limited.
- *Administrative risk*—Typically, the participant must rely on the originating lender to: (a) Service, monitor, and control the credit relationship with the borrower; (b) provide information about the borrower; and (c) remit payments received from the borrower. All of these administrative actions should be addressed in the participation agreement as well as the parties' duties and responsibilities.

A participant's administrative risk increases when the originating lender has no direct financial interest in the loan. Removing the 10-percent retention requirement as permitted by this rule could increase this risk. The participation agreement should specifically address whether the seller has the ability, and under what circumstances, to transfer or sell the note or agreement to a third party without concurrence by the participant.

2. Managing Portfolio Risk

Our current regulations (§ 614.4325(c)(4)) require each System institution involved in loan participation activities to develop and implement specific policies and procedures for such programs, including establishing appropriate portfolio limits to control risk.

While participations offer a number of advantages to managing an institution's portfolio (especially as risk diversification tools) they also carry additional risks not common to a normal borrower/lender relationship. We believe policy direction from a System institution's board of directors becomes even more important with these changes to the existing rule. Each institution board that plans to use loan participations should set portfolio limitations and review them periodically to ensure loan participations are appropriately integrated into the institution's overall business plan and risk management strategies.

IV. Conclusion

After carefully considering all comments received, we adopt the rule as proposed without change. We believe that the provisions of this final rule will give System institutions the needed flexibility to engage in loan participations with other System institutions, Farmer Mac, and non-System lenders. Benefits to System institutions include risk management and risk concentration alternatives as well as additional diversified interest income sources. In addition, to the extent this regulation enables System institutions to establish relationships with non-System lenders through loan participations, both parties should mutually benefit. Possible incidental

[8] *See* § 614.4325(c)(4) of our regulations.

benefits to non-System lenders include increases in fee income, immediate liquidity relief, and having access to alternative and reliable funding sources. Most importantly, we believe expanded lender-to-lender relationships will benefit farmers, ranchers, agriculture, and rural America by increasing access to available credit.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets in excess of $5 billion and annual income in excess of $400 million. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 619

Agriculture, Banks, banking, Rural areas.

For the reasons stated in the preamble, we amend parts 614 and 619 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows: e

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart A—Lending Authorities

2. Amend § 614.4000 as follows:

a. Remove the word ''and'' at the end of paragraph (d)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (d)(2); and

c. Add paragraph (d)(3) to read as follows:

§ 614.4000 Farm Credit Banks.

* * * * *

(d)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

3. Amend § 614.4010 as follows:

a. Remove the ''.'' and add ''; and'' at the end of paragraph (e)(2); and

b. Add paragraph (e)(3) to read as follows:

§ 614.4010 Agricultural credit banks.

* * * * *

(e)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

4. Amend § 614.4020 as follows:

a. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

b. Add paragraph (b)(3) to read as follows:

§ 614.4020 Banks for cooperatives.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

5. Amend § 614.4030 as follows:

a. Remove the word ''and'' at the end of paragraph (b)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

c. Add paragraph (b)(3) to read as follows:

§ 614.4030 Federal land credit associations.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

6. Amend § 614.4040 as follows:

a. Remove the word ''and'' at the end of paragraph (b)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

c. Add paragraph (b)(3) to read as follows:

§ 614.4040 Production credit associations.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

7. Amend § 614.4050 as follows:

a. Remove the word ''and'' at the end of paragraph (c)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (c)(2); and

c. Add paragraph (c)(3) to read as follows:

§ 614.4050 Agricultural credit associations.

* * * * *

(c)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

8. Add a new § 614.4055 to read as follows:

§ 614.4055 Federal Agricultural Mortgage Corporation loan participations.

Subject to the requirements of subpart H of this part 614:

(a) Any Farm Credit System bank or direct lender association may buy from, and sell to, the Federal Agricultural Mortgage Corporation, participation interests in ''qualified loans.''

(b) The Federal Agricultural Mortgage Corporation may buy from, and sell to, any Farm Credit System bank or direct lender association, or lender that is not a Farm Credit System institution, participation interests in ''qualified loans.''

(c) For purposes of this section, ''qualified loans'' means qualified loans as defined in section 8.0(9) of the Act.

Subpart H—Loan Purchases and Sales

9. Amend § 614.4325 by:

a. Removing paragraph (a)(4);

b. Redesignating paragraphs (a)(5), (a)(6), and (a)(7) as paragraphs (a)(4), (a)(5), and (a)(6), respectively; and revising newly designated paragraph (a)(4) to read as follows:

§ 614.4325 Purchase and sale of interests in loans.

* * * * *

(a)(4) *Participating institution* means an institution that purchases a participation interest in a loan originated by another lender.

* * * * *

§ 614.4330 [Amended]

10. Amend § 614.4330 as follows:

a. Remove the words ''an undivided'' and add in their place the words ''a participation'' in paragraph (a)(9); and

b. Remove paragraph (b) and redesignate existing paragraph (c) as paragraph (b).

Subpart J—Lending and Leasing Limits

§ 614.4358 [Amended]

11. Amend § 614.4358 as follows:

a. Remove paragraph (b)(4)(i); and

b. Redesignate paragraphs (b)(4)(ii) and (b)(4)(iii) as paragraphs (b)(4)(i) and (b)(4)(ii), respectively.

PART 619—DEFINITIONS

12. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 4.9, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8 of the Farm Credit Act (12 U.S.C. 2015, 2075, 2160, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b–1, 2279b–2).

§ 619.9195 [Removed and Reserved]

13. Remove and reserve § 619.9195.

Dated: January 7, 2002.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 02–639 Filed 1–9–02; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–30–AD; Amendment 39–12579; AD 2001–26–13]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Model PC–7 airplanes. This AD requires you to inspect the landing-gear emergency-extension cable for damage and replace if necessary; verify the correct installation of the bowden-cable conduit clamp and correct if necessary; and modify the temperature-control lever mechanism. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the malfunction of the emergency landing-gear extension system. Insufficient clearance between the temperature-control lever mechanism and the landing-gear emergency-extension cable could result in damage to the emergency landing gear extension cable, or the cable could get caught on the temperature control lever. Damage to, or interference with, the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

DATES: This AD becomes effective on February 12, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of February 12, 2002.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–30–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Model PC–7 airplanes. The FOCA reports one occurrence of restricted movement of the temperature control lever. Investigation of the problem revealed that the landing-gear emergency-extension cable was caught on the temperature-control lever mechanism. Insufficient clearance between the landing-gear emergency-extension cable and the temperature-control lever caused the interference. This interference could also cause damage to the landing-gear emergency-extension cable.

What Is the Potential Impact if FAA Took No Action?

If not detected and corrected, damage to or interference with the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Model PC–7 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 10, 2001 (66 FR 51611). The NPRM proposed to require you to inspect the landing-gear emergency-extension cable for damage; replace any damaged landing-gear emergency-extension cable; verify the correct installation of the bowden-cable conduit clamp; correct improper installation of the clamp; and install a new bolt and a new nut on the temperature-control lever mechanism.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact

We estimate that this AD affects 13 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

The manufacturer has agreed to pay the costs for the inspection, replacement parts, and installation workhours.

The only impact this AD will have on the owners/operators of the affected airplanes is the time it will take to have the actions of this AD incorporated.

Compliance Time of This AD

What Will Be the Compliance Time of This AD?

The compliance time of this AD is ''within the next 12 calendar months after the effective date of this AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

Although malfunction of the emergency landing gear extension system is unsafe during flight, the condition is not a direct result of airplane operation. The chance of this situation occurring is the same for an airplane with 10 hours TIS as it would be for an airplane with 500 hours TIS.

A calendar time for compliance will ensure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–26–13 Pilatus Aircraft Ltd.: Amendment 39–12579; Docket No. 2001–CE–30–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model PC–7 airplanes, Manufacturer Serial Number (MSN) 001 through MSN 616, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the malfunction of the emergency landing-gear extension system. Insufficient clearance between the temperature-control lever mechanism and the landing-gear emergency-extension cable could result in damage to the emergency landing gear extension cable, or the cable could get caught on the temperature control lever. Damage to, or interference with, the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the landing-gear emergency-extension cable for damage and replace any damaged cable found.	Inspect within the next 12 calendar months after February 12, 2002 (the effective date of this AD). Replace prior to further flight.	In accordance with Pilatus PC–7 Service Bulletin No. 32–020, dated July 5, 2001.
(2) Verify the correct installation of the bowden-cable conduit clamp, correct if necessary, and install a new bolt and a new nut in the temperature-control lever mechanism.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with Pilatus PC–7 Service Bulletin No. 32–020, dated July 5, 2001.
(3) Do not install any temperature-control lever mechanism (or FAA-approved equivalent part number), unless it has been modified as required in paragraph (d)(2) of this AD.	As of February 12, 2002 (the effective date of this AD).	Not applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Pilatus PC–7 Service Bulletin No. 32–020, dated July 5, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Swiss AD HB 2001–483, dated August 20, 2001.

(i) *When does this amendment become effective?* This amendment becomes effective on February 12, 2002.

Issued in Kansas City, Missouri, on December 21, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–149 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30288; Amdt. No. 2087]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on January 4, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
12/17/01	ME	Wiscasset	Wiscasset	1/3252	NDB RWY 25, AMDT 25A...
12/17/01	ME	Wiscasset	Wiscasset	1/3253	GPS RWY 25, AMDT 1...
12/17/01	ME	Wiscasset	Wiscasset	1/3254	GPS RWY 7, AMDT 1...
12/17/01	CA	Oakland	Metropolitan Oakland Intl	1/3273	VOR OR GPS RWY 9R, AMDT 7B...
12/27/01	MD	Indian Head	Maryland	1/3464	VOR–A, ORIG...
12/27/01	MD	Elkton	Cecil County	1/3543	RNAV (GPS) RWY 31, ORIG...

[FR Doc. 02–653 Filed 1–9–02; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30287; Amdt. No. 2086]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce,

I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a significant regulatory action'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on January 4, 2002.

James J. Ballough,

Director, Flight Standards Services.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective February 21, 2002*

Morris, IL, Morris Muni-James R. Washburn Field, RNAV (GPS) RWY 18, Orig
Morris, IL, Morris Muni-James R. Washburn Field, RNAV (GPS) RWY 36, Orig
Davison, MI, Athelone Williams Memorial, VOR RWY 8, Orig
Davison, MI, Athelone Williams Memorial, VOR OR GPS RWY 8, Amdt 3A CANCELLED
Davison, MI, Athelone Williams Memorial, VOR RWY 8, Orig
Davison, MI, Athelone Williams Memorial, RNAV (GPS) RWY 8, Orig
Davison, MI, Athelone Williams Memorial, RNAV (GPS) RWY 26, Orig
Linden, MI, Prices, VOR–A, Orig
Linden, MI, Prices, VOR OR GPS–A, Amdt 4 CANCELLED
Linden, MI, Prices, RNAV (GPS) RWY 9, Orig
Linden, MI, Prices, RNAV (GPS) RWY 27, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 6, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 12L, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 12R, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 24, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 30L, Orig
St. Louis, MO, Lambert-St. Louis Intl, RNAV (GPS) RWY 30R, Orig
Hillsboro, ND, Hillsboro Muni, RNAV (GPS) RWY 16, Orig
Hillsboro, ND, Hillsboro Muni, RNAV (GPS) RWY 34, Orig
Hillsboro, ND, Hillsboro Muni, GPS RWY 16, Orig-B CANCELLED
Hillsboro, ND, Hillsboro Muni, GPS RWY 34, Orig-B CANCELLED
Kenmare, ND, Kenmare Muni, RNAV (GPS) RWY 26, Orig
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 14, Orig
Beaufort, NC, Michael J. Smith Field, GPS RWY 14, Orig, CANCELLED
Chapel Hill, NC, Horace Williams, VOR/DME RWY 27, Amdt 1
Chapel Hill, NC, Horace Williams, GPS RWY 9, Orig, CANCELLED
Chapel Hill, NC, Horace Williams, GPS RWY 27, Orig, CANCELLED
Chapel Hill, NC, Horace Williams, RNAV (GPS) RWY 9, Orig
Chapel Hill, NC, Horace Williams, RNAV (GPS) RWY 27, Orig

[FR Doc. 02–652 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

RIN 1076–AE28

Distribution of Fiscal Year 2002 Indian Reservation Roads Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Temporary rule and request for comments.

SUMMARY: We are issuing a temporary rule requiring that we distribute 75 percent of fiscal year 2002 Indian Reservation Roads (IRR) Program funds to projects on or near Indian reservations using the relative need formula. As we did in fiscal years 2000 and 2001, we are using the Federal Highway Administration (FHWA) Price Trends report for information to calculate the relative need formula, with appropriate modifications to address non-reporting states. We are reserving up to $19.53 million to allow federally recognized tribes to apply for $35,000 each for administrative capacity building and other eligible transportation activities for fiscal year 2002 and we will distribute the balance of the remaining 25 percent of fiscal year 2002 IRR Program funds according to the relative need formula.

DATES: This temporary rule is effective January 10, 2002, through September 30, 2002. We will accept comments on this temporary rule until February 11, 2002.

ADDRESSES: You may send comments on the formula for distribution of the Fiscal Year 2002 IRR funds to: LeRoy Gishi, Chief, Division of Transportation, Office of Trust Responsibility, Bureau of Indian Affairs, 1849 C Street, NW., MS–4058–MIB, Washington, DC 20240. Mr. Gishi may also be reached at 202–208–4359 (phone), 202–208–4696 (fax), or leroygishi@bia.gov (electronic mail).

FOR FURTHER INFORMATION CONTACT: LeRoy Gishi, Chief, Division of Transportation, Office of Trust Responsibilities, Bureau of Indian Affairs, 1849 C Street, NW., MS–4058—MIB, Washington, DC 20240. Mr. Gishi may also be reached at 202–208–4359 (phone), 202–208–4696 (fax), or *leroygishi@bia.gov* (electronic mail).

SUPPLEMENTARY INFORMATION:

Background

Where Can I Find General Background Information on the Indian Reservation Roads Program, the Relative Need Formula, the FHWA Price Trends Report, and the Transportation Equity Act for the 21st Century (TEA–21) Negotiated Rulemaking Process?

The background information on the IRR Program, the relative need formula, the FHWA Price Trends Report, and the TEA–21 Negotiated Rulemaking process is detailed in the **Federal Register** Notice dated February 15, 2000 (65 FR 7431). You may obtain additional information on the IRR Program web site at *http://www.irr.bia.gov.*

What Was the Basis for Distribution of Fiscal Years 2000 and 2001 Funds?

For fiscal year 2000 IRR Program funds, the Secretary published two interim rules distributing one-half of the funds in February 2000 and the second half of the funds in June 2000. For fiscal year 2001 IRR Program funds, the Secretary published two interim rules distributing 75 percent of the funds in January 2001, and the remaining 25 percent of the funds in March 2001. These distributions followed the TEA–21 Negotiated Rulemaking Committee's recommendation to the Secretary in January 2000 and November 2000 to distribute fiscal years 2000 and 2001 IRR Program funds under the relative need formula used in 1998 and 1999, while continuing to develop a proposed formula to publish for comment. In addition, in fiscal years 2000 and 2001 we modified the Federal Highway Administration Price Trends Report indices to account for two non-reporting states.

What Is the Basis for Distribution of Fiscal Year 2002 IRR Program Funds?

The Transportation Equity Act for the 21st Century (TEA–21) provides that the Secretary develop rules and a funding formula for fiscal year 2000 and subsequent fiscal years to implement the Indian Reservation Roads program section of the Act. The Negotiated Rulemaking Committee created under Section 1115 of TEA–21 and comprised of representatives of tribal governments and the Federal Government has been diligently working to develop a funding formula that addresses the Congressionally identified criteria, Committee and tribal recommendations, and is consistent with overall Federal Indian Policy.

The Committee is developing a permanent funding formula that will be published during 2002 in the **Federal Register** for public comment. In the meantime, there are about 1400 ongoing road and bridge construction projects on or near Indian reservations which need fiscal year 2002 funding to continue or complete work. Partially constructed road and bridge projects could pose safety threats. Other road and bridge projects need to be planned or initiated in this fiscal year.

This rule is published as a temporary rule only for interim funding for fiscal year 2002 and sets no precedent for the final rule to be published as required by Section 1115 of TEA–21. The TEA–21 Negotiated Rulemaking Committee agrees that an interim funding formula for fiscal year 2002 is needed. The Committee expects to recommend the publication of a formula for public comment so that a permanent formula can be established for fiscal year 2003, which will begin October 1, 2002. The interim formula for the current fiscal year will also provide tribes with the critical resources to develop inventory data, long-range transportation plans, transportation improvement programs and other information necessary to distribute funds under a new funding formula to be put in place for fiscal year 2003.

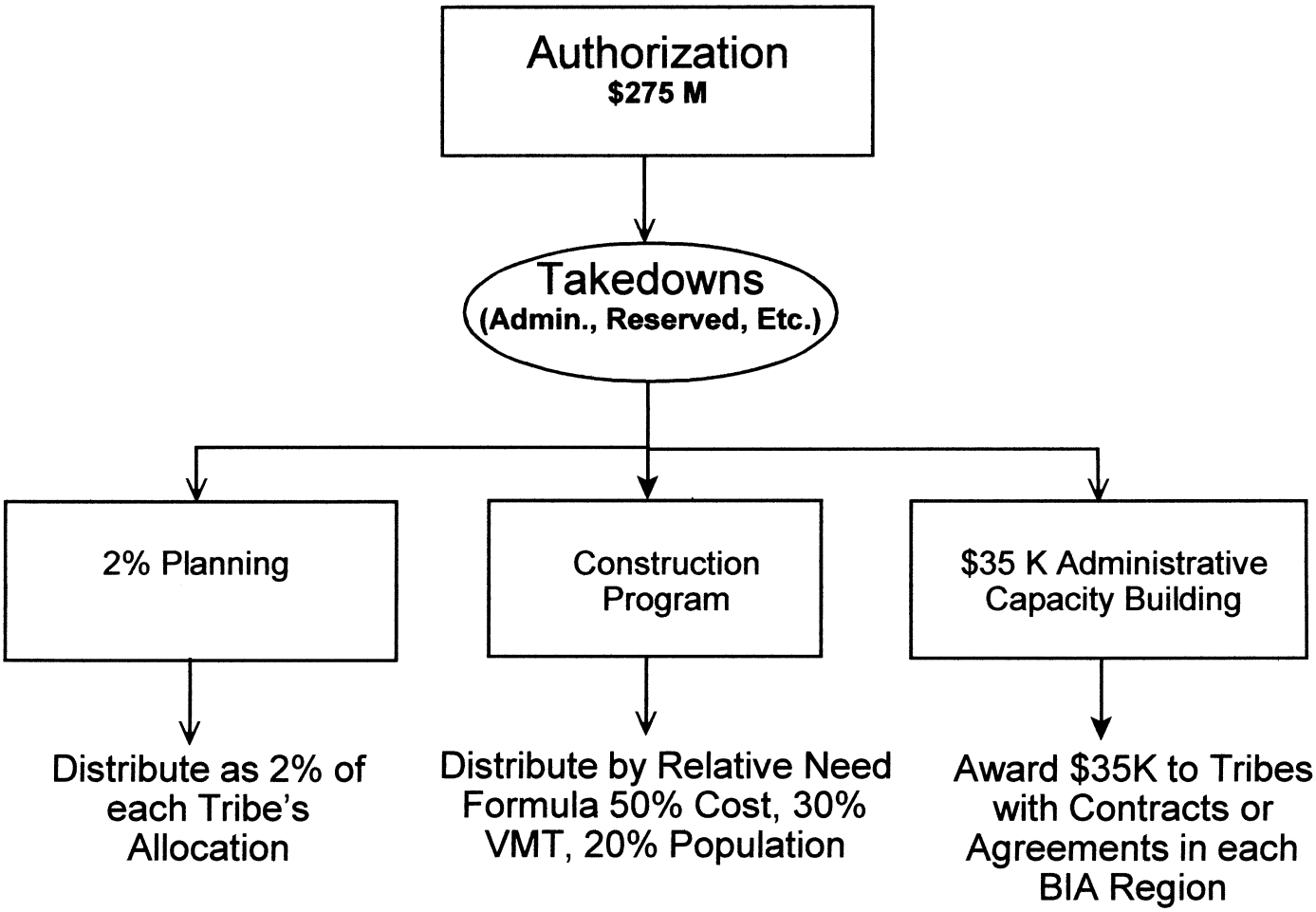
The Secretary is basing this distribution on the TEA–21 Negotiated Rulemaking Committee's tribal caucus recommendation for distribution of fiscal year 2001 IRR Program funds.

How Will the Secretary Distribute Fiscal Year 2002 IRR Program Funds?

Upon publication of this rule and upon enactment of the Department of Transportation Appropriations Act and receipt of contract authority from the Federal Highway Administration, the Secretary will distribute 75 percent of fiscal year 2002 IRR Program funds based on the current relative need formula used in fiscal years 2000 and 2001, and the indices from the FHWA Price Trends Report with appropriate modifications for non-reporting states in the relative need formula distribution process. We will distribute fiscal year 2002 IRR Program funds to the twelve BIA regions using this distribution process. From the remaining 25 percent of fiscal year 2002 IRR Program funds, we are reserving $19.53 million for federally recognized tribes who apply for and have negotiated contracts or agreements for up to $35,000 for administrative capacity building and other eligible transportation activities under the IRR Program. We are requesting comments on the appropriateness of $19.53 million for administrative capacity building and the use of the current relative need formula for distribution of the remaining 25 percent of fiscal year 2002 IRR Program funds.

What Formula Components Are We Using for Distribution of Fiscal Year 2002 IRR Program Funds and How Are They Related?

The following diagram shows the relationship between components for fiscal year 2002 IRR Program funds distribution:



What Data Are We Using for the Interim Distribution Funding Formula?

We are using the most current road inventory data (September 2001) maintained by the Bureau of Indian Affairs.

What Is the Purpose of Administrative Capacity Building?

The primary purpose of administrative capacity building is to provide all tribes an opportunity to participate in the IRR Program by updating transportation needs inventories and performing other transportation planning activities.

How Are We Distributing the Reserved Administrative Capacity Building Funds to the Twelve BIA Regions?

The administrative capacity building funds are to be reserved at BIA until the application/award deadline is met. When we distribute the reserved administrative capacity building funds ($19.53 million) from the second distribution for 25 percent of fiscal year 2002 IRR Program funds, we will distribute to the twelve BIA regions based on the number of tribes in the region that request to participate by tribal resolution or other official action of the tribe.

How Will We Provide Administrative Capacity Building Funds to Tribes?

Any federally recognized tribe may apply to the appropriate BIA region for administrative capacity building funds under the Indian Self-Determination and Educational Assistance Act (Pub. L. 93–638) no later than April 15, 2002.

How Will BIA Provide Administrative Capacity Building Services to Direct Service Tribes?

The BIA regions will provide administrative capacity building services to tribes in their regions that request such services.

What Must a Self-Determination or Self-Governance Tribe Provide in Its Application to the BIA Region for Administrative Capacity Building Funds for Fiscal Year 2002?

A self-determination or self-governance tribe must make application to the appropriate BIA Region by April 15, 2002 and must include:

(a) Scope of work;

(b) Detailed budget not to exceed $35,000; and

(c) Official tribal resolution or other official action of the tribe requesting the funds.

What Will BIA Do With Any Reserved Funds That Have Not Been Awarded to Tribes for Administrative Capacity Building After August 15, 2002?

We will distribute the remaining funds to the twelve BIA regions based on the relative need formula discussed in this rule. It is important that each tribe submit its application for administrative capacity building within the established deadlines so that we can make a timely reallocation of any reserved funds that are not awarded by August 15, 2002.

Are There Any Differences in the Distribution of Fiscal Year 2002 IRR Program Funds as Compared to the Distributions of Fiscal Years 2000 and 2001 IRR Program Funds?

The distribution of fiscal year 2002 IRR Program funds is based on the current relative need formula and the FHWA Price Trends Report indices that were used for the adjusted fiscal years

2000 and 2001 distribution. In February 2000 the Secretary partially distributed fiscal year 2000 IRR Program funds using the relative need formula. In June 2000 the Secretary distributed the remaining funds under the relative need formula by modifying the FHWA price trend report indices for two non-reporting states, Washington and Alaska, that impact tribes in those non-reporting states. In January 2001 the Secretary partially distributed fiscal year 2001 IRR Program funds using the relative need formula. In June 2001 the Secretary distributed the remaining funds under the relative need formula by modifying the FHWA price trend report indices for two non-reporting states, Washington and Alaska, that impact tribes in those non-reporting states. We are using the same modification process for non-reporting states for distribution of fiscal year 2002 IRR Program funds. For fiscal year 2001 we distributed funds in the same manner as in fiscal year 2000, except that we reserved up to $19.53 million for administrative capacity building for federally recognized tribes. We are distributing fiscal year 2002 funds in the same way as fiscal year 2001 IRR Program funds.

Why Does This Temporary Rule Not Allow for Notice and Comment on the First Partial Distribution of Fiscal Year 2002 IRR Program Funds, and Why Is It Effective Immediately?

Under 5 U.S.C. 553(b)(3)(B), notice and public procedure on the first partial distribution under this rule are impracticable, unnecessary, and contrary to the public interest. In addition, we have good cause for making this temporary rule for distribution of 75 percent of fiscal year 2002 IRR Program funds effective immediately under 5 U.S.C. 553(d)(3). Notice and public procedure would be impracticable because of the urgent need to distribute 75 percent of fiscal year 2002 IRR Program funds. Approximately 1400 road and bridge construction projects are at various phases that require additional funds this fiscal year to continue or complete work, including 196 deficient bridges and the construction of approximately 600 miles of roads. Fiscal year 2002 IRR Program funds will be used to design, plan, and construct improvements (and, in some cases, to reconstruct bridges). Without this immediate partial distribution of fiscal year 2002 IRR Program funds, tribal and BIA IRR projects will be forced to cease activity, placing projects and jobs in jeopardy. Waiting for notice and comment on this temporary rule would be contrary to the public interest. In some of the BIA regions, approximately 80 percent of the roads in the IRR system (and the majority of the bridges) are designated school bus routes. Roads are essential access to schools, jobs, and medical services. Many of the priority tribal roads are also emergency evacuation routes and represent the only access to tribal lands. Two-thirds of the road miles in Indian country are unimproved roads. Deficient bridges and roads are health and safety hazards. Partially constructed road and bridge projects and deficient bridges and roads jeopardize the health and safety of the traveling public. Further, over 200 projects currently in progress are directly associated with environmental protection and preservation of historic and cultural properties. This temporary rule is going into effect immediately because of the urgent need for partially distributing fiscal year 2002 IRR Program funds to continue these construction projects.

Distribution of the remaining 25 percent of fiscal year 2002 IRR Program funds will be distributed under the same relative need formula as the first 75 percent of the funds after we review and consider comments.

Clarity of This Temporary Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this temporary rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the temporary rule clearly stated? (2) Does the temporary rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the temporary rule (grouping and order of sections, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the temporary rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the temporary rule? What else could we do to make the temporary rule easier to understand?

Regulatory Planning and Review (Executive Order 12866)

Under the criteria in Executive Order 12866, this temporary rule is a significant regulatory action requiring review by the Office of Management and Budget because it will have an annual effect of more than $100 million on the economy. The total amount available for distribution of fiscal year 2002 IRR Program funds is approximately $226 million and we are distributing approximately $169.5 million under this temporary rule. Congress has already appropriated these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR Program funds, especially under the relative need formula with which the tribal governments and tribal organizations and the BIA are already familiar, is negligible. The distribution of fiscal year 2002 IRR Program funds does not require tribal governments and tribal organizations to expend any of their own funds.

This temporary rule is consistent with the policies and practices that currently guide our distribution of IRR Program funds. This temporary rule continues to adopt the relative need formula that we have used since 1993, adjusting the FHWA Price Trends Report indices for states that do not have current data reports.

This temporary rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency. The FHWA has transferred the IRR Program funds to us and fully expects the BIA to distribute the funds according to a funding formula approved by the Secretary. This temporary rule does not alter the budgetary effects on any tribes from any previous or any future distribution of IRR Program funds and does not alter entitlement, grants, user fees, or loan programs or the rights or obligations of their recipients.

This temporary rule does not raise novel legal or policy issues. It is based on the relative need formula in use since 1993. We are changing determination of relative need only by appropriately modifying the FHWA Price Trend Report indices for states that did not report data for the FHWA Price Trends Report, just as we did for the distribution of fiscal year 2001 IRR Program funds.

Approximately 1400 road and bridge construction projects are at various phases that depend on this fiscal year's IRR Program funds. Leaving these ongoing projects unfunded will create undue hardship on tribes and tribal members. Lack of funding would also pose safety threats by leaving partially constructed road and bridge projects to jeopardize the health and safety of the traveling public. Thus, the benefits of this rule far outweigh the costs. This rule is consistent with the policies and practices that currently guide our distribution of IRR Program funds. This rule continues to adopt the relative need formula that we have used since 1993.

Regulatory Flexibility Act

A Regulatory Flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq. is not required for this

temporary rule because it applies only to tribal governments, which are not covered by the Act.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because it has an annual effect on the economy of $100 million or more. We are distributing approximately $169.5 million under this temporary rule. Congress has already appropriated these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR Program funds, especially under the relative need formula with which tribal governments, tribal organizations, and the BIA are already familiar, is negligible. The distribution of the IRR Program funds does not require tribal governments and tribal organizations to expend any of their own funds.

This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this rule will distribute Federal funds to Indian tribal governments and tribal organizations for transportation planning, road and bridge construction, and road improvements.

This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. In fact, actions under this rule will provide a beneficial effect on employment through funding for construction jobs.

Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*), this temporary rule will not significantly or uniquely affect small governments, or the private sector. A Small Government Agency Plan is not required.

This temporary rule will not produce a federal mandate that may result in an expenditure by State, local, or tribal governments of $100 million or greater in any year. The effect of this temporary rule is to immediately provide 75 percent of fiscal year 2002 IRR Program funds to tribal governments for ongoing IRR activities and construction projects.

Takings (Executive Order 12630)

With respect to Executive Order 12630, the rule does not have significant takings implications since it involves no transfer of title to any property. A takings implication assessment is not required.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment. This temporary rule should not affect the relationship between State and Federal governments because this rule concerns administration of a fund dedicated to IRR projects on or near Indian reservations that has no effect on Federal funding of state roads. Therefore, the rule has no Federalism effects within the meaning of Executive Order 13132.

Civil Justice Reform (Executive Order 12988)

This rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988. This rule contains no drafting errors or ambiguity and is clearly written to minimize litigation, provide clear standards, simplify procedures, and reduce burden. This rule does not preempt any statute. We are still pursuing the TEA–21 mandated negotiated rulemaking process to set up a permanent funding formula distributing IRR Program funds. The rule is not retroactive with respect to any funding from any previous fiscal year (or prospective to funding from any future fiscal year), but applies only to 75 percent of fiscal year 2002 IRR Program funding.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose record keeping or information collection requirements or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq*. We already have all of the necessary information to implement this rule.

National Environmental Policy Act

This rule is categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, because its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and the road projects funded as a result of this rule will be subject later to the National Environmental Policy Act process, either collectively or case-by-case. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

Government-to-Government Relationship With Tribes

Under the President's memorandum of May 14, 1998, Consultation and Coordination with Indian Tribal Governments (63 FR 27655) and 512 DM 2, we have evaluated any potential effects upon federally recognized Indian tribes and have determined that this rule preserves the integrity and consistency of the relative need formula process we have used since 1993. The only changes we are making from previous years (which we also made for fiscal years 2000 and 2001) IRR Program funds are to modify the FHWA Price Trends Report indices for non-reporting states which do not have current price trends data reports. The yearly FHWA Report is used as part of the process to determine the cost-to-improve portion of the relative need formula. Consultation with tribal governments and tribal organizations is ongoing as part of the TEA–21 negotiated rulemaking process and this distribution uses the TEA–21 Negotiated Rulemaking Committee's tribal caucus recommendation.

List of Subjects in 25 CFR Part 170

Highways and Roads, Indians—lands.

For the reasons set out in the preamble, we are amending Part 170 in Chapter I of Title 25 of the Code of Federal Regulations as follows.

PART 170—ROADS OF THE BUREAU OF INDIAN AFFAIRS

1. The authority citation for part 170 continues to read as follows:

Authority: 36 Stat. 861; 78 Stat. 241, 253, 257; 45 Stat. 750 (25 U.S.C. 47; 42 U.S.C. 2000e(b), 2000e–2(i); 23 U.S.C. 101(a), 202, 204), unless otherwise noted.

2. Effective January 10, 2002, through September 30, 2002, add § 170.4b to read as follows:

§ 170.4b What formula will BIA use to distribute 75 percent of fiscal year 2002 Indian Reservation Roads funds?

On January 10, 2002, we will distribute 75 percent of fiscal year 2002 IRR Program funds authorized under Section 1115 of the Transportation Equity Act for the 21st Century, Public Law 105–178, 112 Stat. 154. We will distribute the funds to Indian Reservation Roads projects on or near Indian reservations using the relative need formula established and approved in January 1993. We are modifying the formula to account for non-reporting States by inserting the latest data

reported for those States for use in the relative need formula process.

Dated: December 19, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–268 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–LY–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, 63, 72, and 75

[FRL–7127–4]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and correction to November 15, 2001 Notice of Availability.

SUMMARY: This document announces the availability of applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS)(40 CFR part 60), and the National Emission Standards for Hazardous Air Pollutants (NESHAP)(40 CFR parts 61 and 63). This document also corrects and clarifies the Notice of Availability published in the **Federal Register** on November 15, 2001 (66 FR 57453).

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the ADI at: *http://es.epa.gov/oeca/eptdd/adi.html*. The document may be located by date, author, subpart, or subject search. For questions about the ADI or this document, contact Maria Malave at EPA by phone at: (202) 564–7027, or by e-mail at: *malave.maria@epa.gov*. For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions to the NSPS in 40 CFR part 60 and the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed applicability determinations. See 40 CFR 60.5 and 61.06. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are broadly termed alternative monitoring decisions. Further, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are broadly termed regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 42 such documents added to the ADI on October 19, 2001. The subject, author, recipient, and date (header) of each letter and memorandum is listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI at *http://es.epa.gov/oeca/eptdd/adi.html*.

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on October 19, 2001; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter. We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents.

Correction to November 15, 2001 Notice of Availability

The previous Notice of Availability was published at 66 FR 57453 under the heading ''Recent Posting of Agency Regulatory Interpretations Pertaining to Applicability and Monitoring for Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants to the Applicability Determination Index (ADI) Database System.'' EPA mistakenly included in that notice the statement that ''Comments on any of the documents posted on the ADI database system must be submitted on or before January 14, 2002.'' Please disregard that statement and all associated statements regarding the submission of comments. EPA is not seeking comments on the documents listed in that notice, nor is it seeking comments on any of the documents contained in the ADI database.

EPA notes further that although the November 15, 2001 notice, and this notice, are sufficient to satisfy the publication provisions of 5 U.S.C. 552(a) and 42 U.S.C. 7607(b), the references to those provisions were done by mistake, and were not intended to imply that all of the documents posted on the ADI database fall within the scope of those statutory provisions. Although some of the documents on the ADI database are within the scope of those provisions, others are not, and for this reason, EPA does not refer to those provisions when the Agency publishes a quarterly Notice of Availability of the ADI database.

ADI DETERMINATIONS UPLOADED ON OCTOBER 19, 2001

Control No.	Category	Subpart	Title
M010018	MACT	MMM	Subpart MMM Applicability to Creosote Production Facilities.

ADI DETERMINATIONS UPLOADED ON OCTOBER 19, 2001—Continued

Control No.	Category	Subpart	Title
M010021	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010019	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010020	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010022	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010023	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010024	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010025	MACT	I	NESHAP for Organic HAPs for Certain Processes.
M010026	MACT	LLL	Testing to Determine Area or Major Source Status.
M010027	MACT	A,RRR	Extension to Conduct Initial Performance Testing.
M010028	MACT	S	Alternative Closed Collection and Vent System Monitoring.
M010029	MACT	CC	Existing Refinery Storage Vessels Exempt from Refinery MACT.
M010030	MACT	CC,R	Operating Parameter Monitoring Request.
M010031	MACT	CC,R	Operating Parameter Monitoring Request.
M010032	MACT	S	Alternative Monitoring Protocol for Bleach Plant Scrubber.
M010033	MACT	G,H,VV	Waiver of Flare Performance Test.
M010034	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010035	MACT	S	Pulp and Paper MACT Alternative Monitoring.
M010036	MACT	S	Pulp and Paper MACT Alternative Monitoring.
0100053	NSPS	GG	Custom Fuel Monitoring Schedule.
0100054	NSPS	GG	Alternative Test Methods Under Subpart GG.
0100055	NSPS	Dc	Boiler Derate Proposal.
0100056	NSPS	J	7-Day Trial for Burning Refinery Fuel Gas in Boiler.
0100057	NSPS	Dc	Applicability to Process Heaters.
0100058	NSPS	QQQ	Definition of Oil-water Separator.
0100059	NSPS	OOO	Replacement Equipment Exemption—New Production Line.
0100060	NSPS	QQQ	Alternative Testing Procedure for Oil-water Separator.
0100061	NSPS	SS	Applicability to Clothing Press Production Line.
0100062	NSPS	OOO,A	Replacement of Equipment and Notification Requirements.
0100063	NSPS	CCCC	Applicability to Wood By-product Combustor.
0100065	NSPS	GG	Subpart GG Custom Fuel Monitoring Schedule.
0100066	NSPS	GG,A,Da	Alternate Emission Standard and Monitoring, and Initial Performance Test.
0100067	NSPS	GG	Use of Part 75 for Alternate Monitoring under Subpart GG.
0100068	NSPS	GG	Use of Part 75 for Alternate Monitoring under Subpart GG.
0100069	NSPS	GG	Alternate Test Method/Waiver of Initial Performance Test.
0100070	NSPS	GG	Proposal to Use New Monitor for Subpart GG.
0100071	NSPS	GG	Use of Part 75 for Alternate Monitoring under Subpart GG.
0100072	NSPS	GG	Subpart GG Alternate Test Method/Initial Performance Test.
0100073	NSPS	VV	Waiver of Flare Performance Test.
0100074	NSPS	GG	Custom Fuel Monitoring Schedule.
0100075	NSPS	GG	Custom Fuel Monitoring Schedule.
0100076	NSPS	NNN,RRR	Applicability of NSPS to Ethanol Manufacturing Plants.

Abstracts

Abstract for (M010018)

Q1: Are creosote blend tanks subject to the storage vessel standards or the process vent standards of subpart MMM?

A1: Based on our review of the rule as currently drafted, the creosote blend tanks are subject to process vent standards.

Q2: Are coal tar and naphthalene distillation processes upstream of the creosote blend tanks pesticide active ingredient process units subject to the rule?

A2: Upstream distillation units are not pesticide active ingredient process units and therefore not part of the affected source subject to the rule.

Abstract for (010019)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO_2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010020)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP (40 CFR part 63, subpart S),'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8–10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (010021)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated

back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO_2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010022)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP (40 CFR part 63, subpart S),'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8–10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (010023)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO_2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010024)

Q: May a facility which is subject to the monitoring and inspection procedures for closed collection and vent systems found at 40 CFR 63.443(c), 63.453(k) and (l) of the pulp and paper MACT, subpart S, request approval for alternative provisions for inspection, monitoring of closed collection and vent systems?

A: Yes. The requested alternatives are consistent with requirements in other existing standards, such as the Hazardous Organic National Emission Standards for Hazardous Air Pollutants.

Abstract for (010025)

Q: A facility operates a toner process in which a styrene-butadiene rubber copolymer is manufactured; however, the affected equipment has not operated in hazardous air pollutant (HAP) service for greater than 300 operating hours per year. Is the facility subject to subpart I?

A: No. EPA has determined that the toner process described meets the definition of styrene-butadiene rubber production. However, because the facility has not operated the affected equipment in HAP service greater than 300 operating hours per year, the equipment is not subject to subpart I.

Abstract for (010026)

Q: Does the portland cement MACT require the facility in question to conduct performance tests to determine its status as an area or major source?

A: No, testing is not required. With its current emission profile, the facility is an area source.

Abstract for (010027)

Q: May the deadline by which a performance test for a secondary aluminum processing unit is conducted be extended beyond 180 days of the initial startup?

A: No. The general provisions at 40 CFR 63.7 allow for the rescheduling of testing, but they do not allow testing to be scheduled beyond 180 days of the initial startup if the initial startup date is after the effective date of the relevant standard.

Abstract for (010028)

Q: May a facility conduct closed vent system inspections once a month, rather than once every 30 days as required by 40 CFR 63.453(k)?

A: Yes. The facility may conduct closed vent system inspections once during the calendar month as long as at least 21 days elapse between inspections.

Abstract for (010029)

Q: Are 45 existing storage vessels at the Koch refinery in Pine Bend, Minnesota subject to the refinery MACT?

A: No. The vessels must meet 40 CFR part 60, subpart Kb. The storage vessel provisions in the refinery MACT are very similar to those in subpart Kb. A 1992 Prevention of Significant Deterioration (PSD) permit required Koch to comply with subpart Kb, and the State issued the PSD permit before EPA proposed the refinery MACT.

Abstract for (010030)

Q: Will EPA approve the selected operating parameter and its value for continuous monitoring at the Track 8 rail loading rack at the Koch refinery in Pine Bend, Minnesota?

A: Yes. The flare demonstrated compliance with the standards in 40 CFR 63.11(b). The presence of a pilot light will adequately demonstrate compliance with the emission standard in 40 CFR 63.422(b).

Q: Will EPA approve the selected operating parameter and its value for continuous monitoring at the tank truck bottom loading rack at the Koch refinery?

A: No. Reporting on a single operating parameter, the total volatile organic compound (VOC) concentration at the vapor recovery unit outlet, does not account for the effects of temperature, barometric pressure, volumetric flow, and rate of gasoline loading.

Abstract for (010031)

Q: Will EPA approve the selected operating parameter for continuous monitoring and the parameter's value for the tank truck bottom loading rack at the Koch refinery in Pine Bend, Minnesota?

A: Yes. Additional data shows that a total VOC concentration of 2350 ppmv as a 6-hour average at the vapor recovery unit outlet will demonstrate compliance with the emission standard at 40 CFR 63.422(b).

Abstract for (010032)

Q: Will EPA approve an alternative monitoring method for the Mead, Chillicothe, Ohio paper mill that uses on/off status as an operational parameter indicating the operating status of the fan used to convey gases to the bleach plant scrubber?

A: Yes. Graphs indicating the operating status of the fan will be used to monitor and record the on/off status. The performance test must show compliance with the fan operating at maximum speed.

Abstract for (010033)

Q: May the BP Chemicals facility waive the requirement to conduct initial performance testing of the Butanediol Plant flare?

A: No. BP Chemicals cannot waive the requirement to conduct initial performance testing of the Butanediol Plant flare. Current methods for initial performance testing of flares are applicable to BP Chemicals.

Abstract for (010034)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for Subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP,

(40 CFR part 63, subpart S),'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8 through 10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (010035)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor bleach plant scrubber influent pH/ORP rather than the effluent pH/ORP?

A: Yes. The configuration of the scrubbing system is such that the scrubbing medium is taken from the bottom of the scrubber and recirculated back to the inlet spray nozzles at the top of the scrubber. Several years of emission test data has shown chlorine (CL_2) and chlorine dioxide (CLO2) emissions to be less than 1.0 ppmv, far below the 10 ppmv or less specified in subpart S.

Abstract for (010036)

Q: May a facility which is subject to the bleaching and monitoring standards found at 40 CFR 63.445(c) and 63.453(c) of the pulp and paper MACT, subpart S, monitor fan amperage for the bleaching system gas scrubber vent gas fan in lieu of monitoring vent gas inlet flow rate?

A: Yes. EPA's document for Subpart S, titled ''Questions and Answers (Q&As) for the Pulp and Paper NESHAP 40 CFR part 63, subpart S,'' dated September 22, 1999, discusses the alternative monitoring parameter issue. See pages 8 through 10. It allows the monitoring of fan operation instead of gas flow rate. Allowable monitoring parameters of fan operation include fan motor amperage, on/off status, or rotational speed of the fan.

Abstract for (100053)

Q: Will EPA approve a custom fuel monitoring schedule under Subpart GG for a facility whose turbines combust only pipeline-quality natural gas?

A: Yes. Because the turbines combust only pipeline-quality natural gas fuel, EPA will approve the custom fuel monitoring schedule according to established EPA National Policy.

Abstract for (0100054)

Q: Will EPA approve alternative test methods under Subpart GG and the waiver of various other test requirements for the three new gas turbines to be installed at Conectiv's Hay Road Power Complex in Wilmington, Delaware?

A: EPA will approve some of the alternative testing methods but not all of them as the State of Delaware is requiring strict NSPS testing compliance through their own permitting authority.

Abstract for (100055)

Q: Will EPA approve a boiler deration proposal under Subpart Dc?

A: EPA will approve a boiler deration proposal that meets federal policy on being a permanent change to the steam output capacity of the boiler which cannot be easily reversed.

Abstract for (0100056)

Q: May a facility operate its new Wickes boiler on refinery fuel gas for a 7 day trial period prior to installing a continuous emission monitor (CEM) for sulfur dioxide?

A: Yes, EPA will allow this short trial period for selecting the correct CEM and ensuring proper boiler operation on the waste gas fuel. This is with the understanding that the facility will be sampling and analyzing the waste gas fuel for H_2S content every 4 hours during the trial period.

Abstract for (0100057)

Q: Two natural gas fired heaters are used to heat $TiCl_4$ and pure oxygen prior to being reacted. Are the two heaters subject to subpart Dc?

A: No. The subpart Dc affected facility is identified as a steam generating unit. Since the definition of a steam generating unit excludes process heaters, the two heaters are not subject to subpart Dc.

Abstract for (0100058)

Q: Two tanks which are subject to NSPS subpart Kb serve primarily as surge and equalization tanks and separate oil and water as an incidental function. Are the two tanks considered storage vessels or oil-water separator tanks, and are they exempt from 40 CFR 60.692 and 60.693?

A: The two tanks are considered storage vessels under subpart QQQ rather than oil-water separator tanks. Since the two tanks are subject to the standards specified at 40 CFR 60.112b, subpart Kb, they are not regulated by subpart QQQ due to the exemption provided in 40 CFR 60.692 through 60.693(d).

Abstract for (0100059)

Q: A new production line is being constructed at a nonmetallic mineral processing plant which will include affected facilities constructed after the subpart OOO applicability date and a crusher which was constructed prior to the applicability date. Will any of the affected facilities be subject to subpart OOO prior to the modification or reconstruction of the crusher?

A: Yes. All affected facilities in the production line would be subject to subpart OOO except for the crusher. The exemption provided in 40 CFR 60.670(d)(1) only applies to the replacement of an existing facility with equipment of equal or smaller size having the same function as the existing facility. The use of a crusher which was constructed prior to the applicability date would not cause all other affected facilities in the new production line to be exempt under 40 CFR 60.670(d).

Abstract for (0100060)

Q: A double seal, internal floating roof is being used on an oil-water separator to comply with the standard provided in 40 CFR 60.692 through 60.693. Is the subpart Ka testing (inspection) standard acceptable as an alternative to the subpart QQQ inspection procedures?

A: No. Since subpart Ka does not require any type of periodic inspections for internal floating roofs, the proposal is not appropriate. However, the use of subpart Kb inspection procedures for internal floating roofs provided in 40 CFR 60.113b(a) would be acceptable.

Abstract for (0100061)

Q: Does NSPS, subpart SS, apply to surface coating operations used to paint clothing press parts and the surface of the clothing presses?

A: No. The subpart SS affected facility is each surface coating operation in a large appliance surface coating line. Since a clothing press is not identified in subpart SS as a large appliance product, the surface coating of clothing presses is not regulated.

Abstract for (0100062)

Q: Is a piece of equipment which is covered by the exemption in 40 CFR 60.670(d)(1) considered an affected facility which is subject to the notification requirements of 40 CFR 60.7?

A: Yes. When a piece of equipment is replaced with equipment of equal or smaller size, the replacement equipment is an affected facility subject to subpart OOO, even though the exemption in 40 CFR 60.670(d) may apply.

Abstract for (0100063)

Q: Is a wood by-product combustor subject to the Commercial and Industrial Solid Waste Incineration NSPS, subpart CCCC?

A: No. Because the wood by-product combustor has heat recovery that is used

to heat the ventilation make-up air, and the combustor is only operated during the cold winter months when this heat is needed, it is not subject NSPS, subpart CCCC.

Abstract for (0100064)

Q: May the El Paso Company obtain a relaxed sulfur-in-fuel monitoring schedule under 40 CFR part 60, subpart GG, for the operation of a 70 MMBtu/hr compressor station operating solely on natural gas?

A: Yes. EPA routinely grants custom monitoring schedules under NSPS, subpart GG, for facilities burning low sulfur fuels.

Abstract for (0100065)

Question: May the UAE Lowell LLC facility obtain a relaxed sulfur-in-fuel monitoring schedule under 40 CFR part 60, subpart GG for the operation of a 90 MW stationary gas turbine with a primary fuel of natural gas and a secondary fuel of very-low sulfur distillate oil?

Answer: Yes, EPA routinely grants custom monitoring schedules under NSPS, subpart GG for facilities burning low sulfur fuels.

Abstract for (0100066)

Q1: May the Ameren facility demonstrate compliance with 40 CFR part 60, subpart GG using the allowable NO_X emission rate in 40 CFR part 60, subpart Da (1.6 lb/MW-hr) as a limit on each entire combined cycle turbine?

A1: Yes. Ameren may use the more stringent emission limit of 1.6 lb/MW-hr NO_X at 40 CFR part 60, subpart Da on the entire combined cycle turbine in lieu of monitoring separately under 40 CFR part 60, subpart Da and 40 CFR part 60, subpart GG.

Q2: May the Ameren facility receive a waiver of the initial performance testing for NO_X at 40 CFR part 60, subpart GG?

A2: No. Ameren may not waive the initial performance testing required by 40 CFR part 60, subpart GG. However, U.S. EPA does waive the requirement to test at all four loads.

Q3: May the Ameren facility use NO_X CEMs for demonstrating compliance with 40 CFR part 60, subpart GG in lieu of fuel nitrogen monitoring?

A3. Yes. Ameren may use NO_X CEMs to demonstrate compliance with 40 CFR part 60, subpart GG in lieu of fuel nitrogen monitoring.

Abstract for (0100067)

Q1: May the Cascade Creek facility use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG?

A1: Yes. Cascade Creek may use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG. This approval is based on certain conditions outlined in the approval letter.

Q2: May the Cascade Creek facility use RATA test data obtained during CEM certification, as required by 40 CFR part 75, to demonstrate initial compliance with NO_X limits at 40 CFR part 60, subpart GG in lieu of fuel monitoring for nitrogen content?

A2: Yes. Cascade Creek may use RATA data to demonstrate initial compliance with 40 CFR part 60, subpart GG.

Q3: May the Cascade Creek facility use fuel monitoring requirements for natural gas and number 2 fuel oil at 40 CFR part 75, appendix D in lieu of fuel monitoring required by 40 CFR part 60, subpart GG?

A3: Yes. Cascade Creek may use fuel monitoring requirements for natural gas and number 2 fuel oil at 40 CFR part 75, appendix D in lieu of fuel monitoring required by 40 CFR part 60, subpart GG?

Abstract for (0100068)

Q1: May the City of Chaska use newer ASTM methods for fuel sulfur content monitoring at 40 CFR part 75 at the Minnesota Municipal Power Agency's Minnesota River Station when burning fuel oil, in lieu of methods ASTM at 40 CFR part 60, subpart GG?

A1: Yes. The City of Chaska may use newer ASTM methods given in 40 CFR part 75 for determining sulfur content of fuel when fuel oil is burned.

Q2: May the City of Chaska use a correlation graph developed in accordance with 40 CFR part 75, appendix E, to determine compliance with NO_X emission limits at the Minnesota Municipal Power Agency's Minnesota River Station when burning fuel oil, in lieu of methods at 40 CFR part 60, subpart GG?

A2: Yes. The City of Chaska may use a correlation graph developed in accordance with 40 CFR part 75, appendix E when burning either fuel oil or pipeline natural gas in lieu of methods at 40 CFR part 60, subpart GG. This approval is granted only if the turbines using the turbines are peaking units as defined at 40 CFR 72.2.

Q3: May the City of Chaska use the default value of 0.0006 pounds of sulfur per million BTU of heat input and monitor the amount of natural gas burned to determine sulfur emissions in accordance with 40 CFR part 75 at the Minnesota Municipal Power Agency's Minnesota River Station when burning pipeline natural gas, in lieu of sulfur monitoring at 40 CFR part 60, subpart GG?

A3: Yes. The City of Chaska may use the default value of 0.0006 pounds of sulfur per million BTU of heat input and monitor the amount of natural gas burned to determine sulfur emissions in accordance with 40 CFR part 75 in lieu of sulfur monitoring at 40 CFR part 60, subpart GG. This approval is acceptable only when pipeline natural gas is being burned as fuel in the turbines.

Abstract for (0100069)

Q1: May the Lakefield Junction facility use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG?

A1: Yes. Lakefield Junction may use 40 CFR part 75 NO_X CEMs in lieu of monitoring for NO_X as required at 40 CFR part 60, subpart GG. This approval is based on certain conditions outlined in the approval letter.

Q2: May the Lakefield Junction facility use the custom monitoring schedule for sulfur content in fuel as outlined in the August 14, 1987 memorandum from John Rasnic for the six turbines being installed and all future turbines installed?

A2: Yes. Lakefield Junction may use the custom monitoring schedule for sulfur content for the six turbines being installed. This approval is not extended to all future turbines which may be installed. Future turbine installation will require a new determination request be made by the facility.

Q3: May the Lakefield Junction facility use CEM certification data required by 40 CFR part 75 to demonstrate initial compliance in lieu of Reference Method 20?

A3: U.S. EPA Region 5 has not been delegated authority to approve alternative test methods as proposed by Lakefield Junction. The Regional Office is, however, delegated authority to waive initial performance tests when compliance has been demonstrated by other means. U.S. EPA Region 5 does, therefore, waive the initial performance test requirements for NO_X under 40 CFR part 60, subpart GG. This waiver is approved only if certain conditions are met.

Q4: Will U.S. EPA Region 5 rescind the determination made in a letter dated September 8, 1999 addressed to MPCA?

A4: Yes. U.S. EPA Region 5 rescinds the determination made for Lakefield Junction, through MPCA, on September 8, 1999.

Abstract for (0100070):

Q: May the Northern Natural Gas Company and Northern Border Pipeline Company use a new monitor for

determining sulfur content in fuel for demonstrating compliance with 40 CFR part 60, subpart GG?

A: No determination was made. Additional information is necessary to clarify the facility's requests.

Abstract for (0100071):

Q1: May the DP&L facility use NO_X CEMs for in lieu of fuel monitoring requirements for nitrogen given at 40 CFR part 60, subpart GG?

A1: Yes. DP&L may use CEMs as required by the acid rain program to demonstrate compliance with NO_X limits in 40 CFR part 60, subpart GG. This approval is granted so long as listed conditions are met.

Q2: May the DP&L facility get a waiver of the requirements to correct NO_X CEM emission data to ISO conditions?

A2: Yes. DP&L may waive the requirement to convert results to ISO conditions, so long as all data necessary for the conversion is still maintained.

Q3: May the DP&L facility use RATA results obtained during certification of the NO_X CEMs to demonstrate initial compliance with 40 CFR part 60, subpart GG?

A3: Yes. DP&L may use RATA results to demonstrate initial compliance with NO_X limits for NSPS subpart GG so long as certain conditions are met.

Q4: May the DP&L facility use fuel monitoring provisions for sulfur at 40 CFR part 75, in lieu of fuel monitoring provisions for sulfur given at 40 CFR part 60, subpart GG?

A4: Yes. DP&L may use monitoring provisions at 40 CFR part 75 for sulfur content in fuel in lieu of fuel monitoring requirements given at 40 CFR part 60, subpart GG.

Abstract for (0100072)

Q1: May the DP&L facility conduct initial performance testing of all turbines identified at base load only?

A1: Yes. DP&L may conduct initial performance testing at base load if certain conditions are met.

Q2: May DP&L use Method 7E in lieu of Method 20 for demonstrating initial compliance with NOX for NSPS subpart GG?

A2: Yes. DP&L may use Method 7E to demonstrate initial compliance with NSPS subpart GG. This approval was granted by the Emissions, Monitoring and Analysis Division in the Office of Air Quality Planning and Standards, in a memorandum to George Czerniak.

Abstract for (0100073)

Q: May the BP Chemicals facility waive the requirement to conduct initial performance testing of the Butanediol Plant flare?

A: No. BP Chemicals cannot waive the requirement to conduct initial performance testing of the Butanediol Plant flare. Current methods for initial performance testing of flares are applicable to BP Chemicals.

Abstract for (0100074)

Q: Will EPA Region III approve a custom fuel monitoring schedule for sulfur content under 40 CFR part 60, subpart GG?

A: Yes. EPA has National Policy in regard to fuel sampling and analysis for sulfur content under subpart GG for stationary gas turbines that combust pipeline-quality natural gas fuel.

Abstract for (0100075)

Q: Will EPA Region III approve a custom fuel monitoring schedule for Wolf Hills Energy Under 40 CFR part 60, subpart GG?

A: Yes. Because the request meets the conditions of EPA's National Policy on such schedules, EPA Region III will approve the request.

Abstract for (0100076)

Q: Are ethanol manufacturing facilities exempt from the requirements of 40 CFR part 60, subparts RRR and NNN?

A: Yes. EPA has previously determined that ethanol manufacturing facilities may be exempt from NSPS, subparts RRR and NNN, on a case-by-case basis. In this instance, the ethanol facilities in question use a biological process to ferment the converted starches in corn into ethanol. These subparts did not envision unit operations for biological processes.

Dated: January 4, 2002.

Lisa C. Lund,

Acting Director, Office of Compliance.

[FR Doc. 02–624 Filed 1–9–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001128334–1313–06; I.D. 092101B]

RIN 0648–AN88

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations that implement the Atlantic Large Whale Take Reduction Plan (ALWTRP) to provide further protection for large whales, with an emphasis on protective measures to benefit North Atlantic right whales. This final rule expands gear modifications required by the December 2000 interim final rule to the Mid-Atlantic and Offshore lobster waters and modifies requirements for gillnet gear in the mid-Atlantic.

DATES: This final rule is effective February 11, 2002.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Final Regulatory Flexibility Analysis (FRFA), are available from the Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298. Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, progress reports on implementation of the ALWTRP, and a table of the changes to the ALWTRP may be obtained by writing to Diane Borggaard at the address above or Katherine Wang, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432. Copies of the EA, the RIR, and the FRFA can be obtained from the ALWTRP website listed under the Electronic Access portion of this document.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS, Northeast Region, 978–281–9145; Katherine Wang, NMFS, Southeast Region, 727–570–5312; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for this final rule and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/*. Copies of the most recent marine mammal Stock Assessment Reports may be obtained by writing to Richard Merrick,

NMFS, 166 Water St., Woods Hole, MA 02543 or can be downloaded from the Internet at *http://www.nmfs.noaa.gov/prot_res/mammals/sa_rep/sar.html*. Information on disentanglement events is available on the web page of NMFS' whale disentanglement contractor, the Center for Coastal Studies, *http://www.coastalstudies.org/*.

Background

This final rule implements approved modifications contained in the ALWTRP recommended by the ALWTRT, as well as other modifications deemed necessary by NMFS to satisfy requirements of the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Details concerning the justification for and development of this rule were provided in the preamble to the proposed rule (66 FR 49896, October 1, 2001) and are not repeated here.

Changes to the ALWTRP for Lobster Trap Gear

Northern Inshore State Lobster Waters Area

This final rule removes the option for lobstermen to use line with a diameter of 7/16 in (1.11 cm) or less for all buoy line, effective January 1, 2003, from the Lobster Take Reduction Technology List applicable to fishing with lobster traps in this area, and it allows the use of neutrally buoyant line in all buoy lines and ground lines as an option to be chosen from that list.

Southern Nearshore Lobster Waters Area

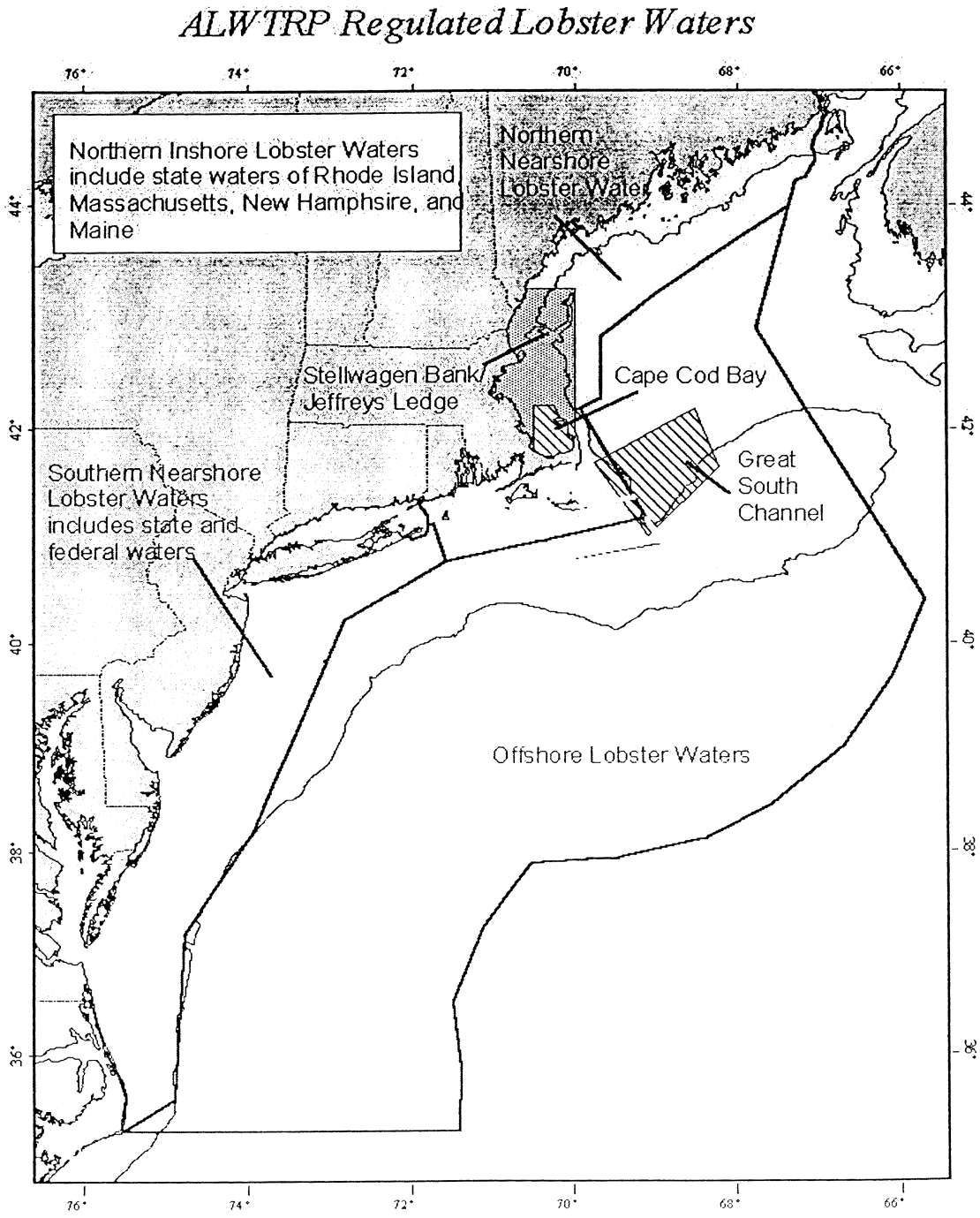
This final rule replaces the Lobster Gear Technology List with the following mandatory gear modifications applicable year-round: (a) installation of a weak link with a maximum breaking strength of 600 lb (272.4 kg) on the buoy line, and (b) installation of weak links in such a way that produces knotless ends if the weak link breaks.

Offshore Lobster Waters Area

This final rule reduces the maximum breaking strength of weak links at all buoys from 3,780 lb (1,714.3 kg) to 2,000 lb (906.9 kg), and requires installation of weak links in such a way that produces knotless ends if the weak link breaks.

BILLING CODE 3510–22–P

Figure 1



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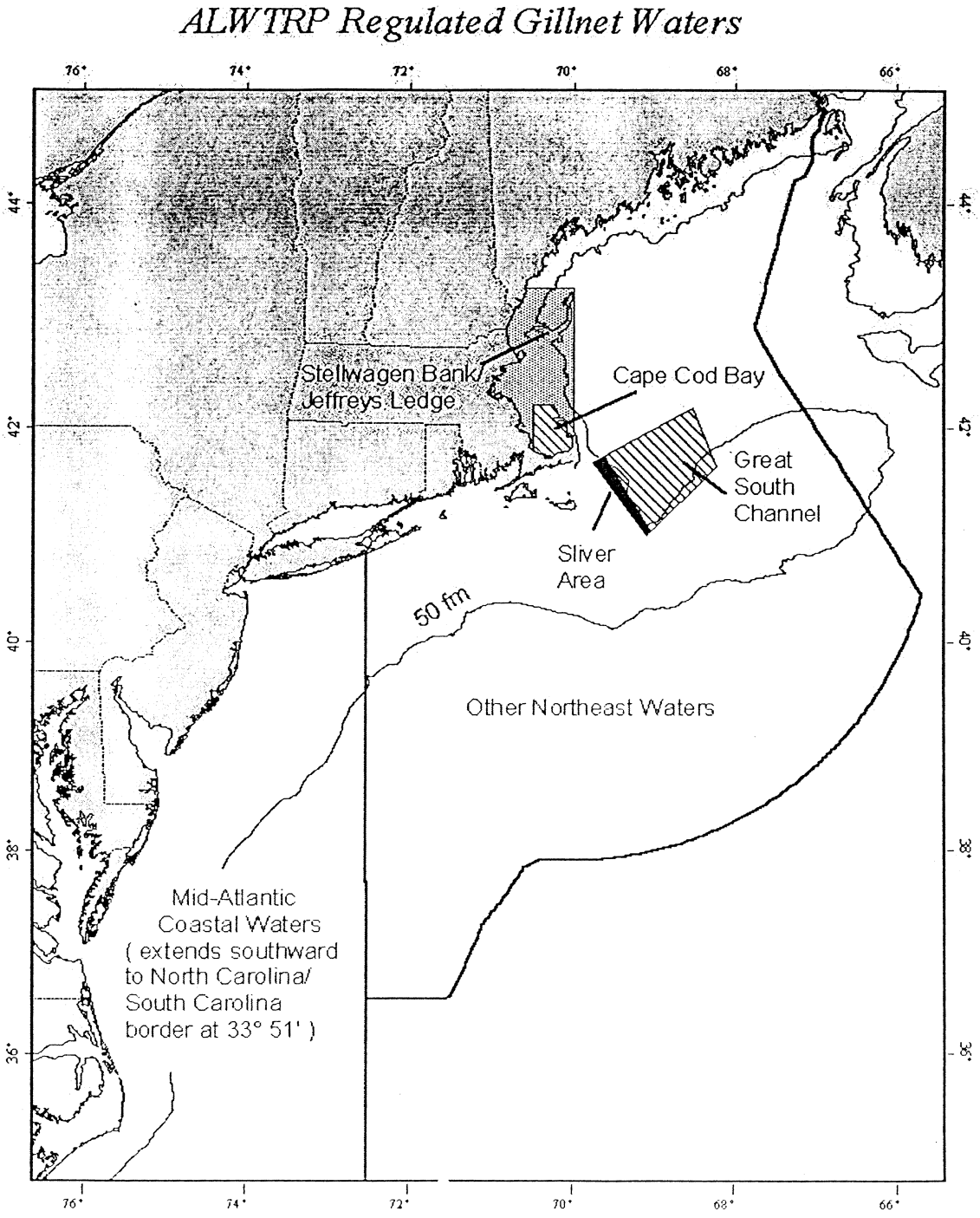
Changes to the ALWTRP for Gillnet Gear

Gillnet Mid-Atlantic Coastal Waters Area

This final rule replaces the Gillnet Take Reduction Technology List with requirements to install buoy line weak links with a maximum breaking strength of 1,100 lb (498.8 kg) placed as close to each individual buoy as operationally feasible and net panel weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline section on each 50-fathom net panel or every 25 fathoms on the floatline for longer panels. It also requires fishers to return all gillnet gear to port with their vessels, or if the gillnets are left at sea to continue fishing, to secure the nets on each end with anchors that have the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor.

Figure 2



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Changes to the Take Reduction Technology Lists

Lobster Take Reduction Technology List

This final rule removes the option for fishers to use 7/16 in (1.11 cm) diameter line for all buoy lines, effective January 1, 2003, and amends the list to provide the option that all buoy lines and ground lines be composed entirely of sinking and/or neutrally buoyant line. For the Southern Nearshore Lobster Waters Area, this final rule replaces the requirement to choose options from the Lobster Take Reduction Technology List with a set of specific requirements.

Gillnet Take Reduction Technology List

This final rule removes the option for fishers to use line of 7/16 in (1.11 cm) in diameter or less for all buoy lines, requires installation of weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline of each net panel, and requires that all buoy lines be composed entirely of sinking and/or neutrally buoyant line.

Voluntary Measures

NMFS continues to encourage fishers to use and maintain knot-free buoy lines. As described in the preamble to the proposed rule, the ALWTRT initially recommended requiring knot-free buoy lines, but changed the recommendation from a mandatory measure to a voluntary measure because fishers need to repair and re-tie buoy lines frequently at sea. The knot-free buoy line concept is similar to the breakaway buoy concept, where the objective is to keep knots from becoming lodged in a whale's baleen or from contributing to the wrapping of line around an appendage.

In some cases, fishers prefer splices to knots, because splices are stronger. NMFS is recommending the use of splices wherever possible, because splices are not likely to increase entanglement threat. However, NMFS recognizes that connecting lines using a splice may not be practicable while gear is being hauled. NMFS encourages the splicing of line, as opposed to knot-tying, especially during seasonal gear overhauls or as new gear is added. Although concepts for devices to join lines quickly at sea have been proposed, none have been developed yet; therefore, there is currently no feasible way to join lines quickly other than knotting. NMFS will continue to investigate line connecting alternatives and may require further use of knotless lines in the future if a reasonable substitute for knots is developed.

Comments and Responses

NMFS received 23 sets of written comments on the proposed rule by the October 31, 2001 deadline. The comments were considered in developing this final rule to amend the regulations that implement the ALWTRP and are responded to here.

General Comments

Comment 1: Two commenters generally opposed the gear regulations, one of which noted that the regulations were too restrictive and costly. Four commenters generally believed that the regulations were not restrictive enough; all noted that other options exist that have a greater potential to reduce risk of serious injury and mortality to large whales. Seven commenters generally supported the new rule changes. One commenter expressed support because the proposed rule reflects the ALWTRT recommendations, and another because they were based on reasonable and tested gear modifications.

Response: NMFS is amending the regulations that implement the ALWTRP to provide further protection for large whales, with an emphasis on North Atlantic right whales due to their critical status. NMFS takes the economics of the fisheries into consideration, to the extent possible, when developing marine mammal protective measures that meet the standards of the MMPA and ESA. NMFS seeks recommendations from the ALWTRT, and considers these along with the best available information on gear and large whale entanglements when developing ALWTRP regulations.

Comment 2: Eight commenters noted other sources or potential sources of right whale mortality, such as recreational boaters, commercial shipping vessels, whale watch vessels, other fishing gear aside from lobster and gillnet gear that has vertical line in the water column or is configured in a way that poses a potential threat to right whales, and gear employed by foreign fishing vessels. Four commenters noted that NMFS was implementing significant modifications to fishing gear and practices of the lobster and gillnet fisheries without providing adequate protection to right whales from other sources of mortality. One of these commenters expressed concern that right whale mortality due to fishing is the smallest source of right whale mortality, but NMFS focuses on it because it is the easiest to manipulate.

Response: This final rule stems from a component of the Reasonable and Prudent Alternative (RPA) resulting from consultations required under section 7 of the ESA. NMFS issued four BOs on the monkfish, spiny dogfish, multispecies Fishery Management Plans (FMPs)and lobster Federal regulations on June 14, 2001. NMFS is issuing this final rule specifically to address commercial fishery impacts from these four fisheries. In addition, under the MMPA, NMFS must reduce incidental mortality and serious injury of marine mammals resulting from interaction with commercial fishing gear. NMFS appreciates the gillnet and lobster fishing industries' involvement in the ALWTRT and their efforts to reduce takes of marine mammals in their fisheries. NMFS realizes that other marine resource user groups, including other fisheries with gear with vertical lines, are affecting large whale populations, and NMFS will continue efforts to try to reduce these impacts.

NMFS is currently addressing other sources of right whale mortality through other rulemaking processes and policy discussions. NMFS issued a contract for the completion of a report that made recommendations to decrease ship strikes. The Northeast and Southeast Recovery Plan Implementation Teams, composed of members from various marine stakeholders, including the U.S. Navy and port authority representatives, have been advising NMFS on ways to address impacts from recreational and commercial vessels. NMFS is taking these recommendations under consideration and is working to minimize the potential for vessel collisions. NMFS is also working on a proposed rule to minimize the potential for future serious injury and mortality of whales from whale watch vessels. NMFS is continuing to work with Canadian biologists and to support efforts to expand disentanglement efforts in Canadian waters. NMFS will continue to work with the Government of Canada toward development of similar protective measures for right whales in Canadian waters.

Comment 3: One commenter noted that NMFS should include through the Take Reduction Team (TRT) process all other fishing gear types that pose a potential threat to the right whale because of the use of a vertical line in the water column or the configuration of the gear itself. This commenter urged NMFS to work with states and Fishery Management Councils (FMC) to obtain further information on these fisheries as well as other experimental fishery permits that might potentially use a vertical buoy line. Another commenter recommended that NMFS consider including other regulated fixed gears that use buoy lines, and gear types that have a configuration that poses a

potential threat to right whales in these regulations because unidentified gear or line has been involved in whale entanglements. NMFS should give a rationale for gear determined to be exempt from such measures.

Response: At the next ALWTRT meeting, NMFS would like to discuss this with ALWTRT members and to obtain recommendations on which fisheries to bring into the take reduction team process and which fisheries to exempt. Currently, state representatives and council members have been invited to participate as members of the NMFS take reduction teams. Through its involvement, NMFS can utilize its expertise and obtain further information on additional fisheries and experiments that may potentially use a vertical buoy line. NMFS also participates in FMC and Atlantic States Marine Fisheries Commission's protected species committees/subcommittees to coordinate on protected species management issues. Also, through the ESA section 7 process, any Federal Experimental Fishery Permit would be reviewed to assess the impacts of that fishery on species protected under the ESA, such as right whales.

Comment 4: Two commenters opposed the preemption of state laws and/or regulations by Federal regulations issued by NMFS. One of these commenters noted that states should make their own rules as they are better able to adapt whale protection measures in response to new information, and to adjust those measures when necessary, than NMFS. This same commenter noted that enforcement could prove to be even more problematic than it currently is.

Response: Although the MMPA provides NMFS with authority to regulate in State waters, states can develop equally protective or more protective restrictions if they choose, and NMFS encourages such action. Further, NMFS has cooperative agreements in place with a number of Atlantic states, which enable states to enforce requirements of the MMPA and its implementing regulations.

NMFS tries to coordinate with states on other issues as well. For example, with regard to gear markings that yield individual vessel information, many of the state and Federal FMPs currently require marking of buoys and/or traps with individual vessel identification. NMFS plans to continue to work with state fisheries agencies to investigate gear marking coast-wide and identify gaps in marking of surface gear, gillnets, and traps. This information will be presented to the ALWTRT for future consideration.

Comment 5: NMFS must develop and implement plans for the conservation and survival of the right whale under the MMPA and ESA and the current plan has not met that mandate.

Response: NMFS is presently updating the ALWTRP with additional gear modifications in this final rule, as well as with measures proposed for Seasonal Area Management (66 FR 59394, November 28, 2001) and Dynamic Area Management (66 FR 50160, October 2, 2001). It is NMFS' Biological Opinion (BO) that if the agency modifies the ALWTRP according to the RPA, then the continued operation of the four fisheries will not jeopardize the continued existence of the western North Atlantic right whale. The ALWTRP is not a static plan, and NMFS continues to revise the ALWTRP to achieve its goals of reducing the serious injury and mortality of whales in commercial fishing gear. The ALWTRT continues to convene yearly as required to make recommendations to NMFS on any needed modifications to the plan to reach the Potential Biological Removal levels and Zero Mortality Rate Goal of right, humpback, fin and minke whales. Additionally, pursuant to the ESA, NMFS publishes recovery plans for endangered or threatened marine mammals to promote the recovery of the species. The first Right Whale Recovery Plan was published in 1991, and an updated draft was recently released for public comment (66 FR 36260, July 11, 2001). The comment period ended October 25, 2001, and NMFS is presently reviewing comments and modifying the plan. The plan includes an implementation schedule to direct and monitor the completion of recovery tasks.

Comment 6: One commenter noted that although progress has been made to identify gear modifications that hold potential for reducing entanglement risks, strong reliance on gear modification as a take reduction tool is warranted only if there is a solid reason to believe they will reduce entanglement risks (e.g., neutrally buoyant line). The commenter added that most gear modifications to date offer little certainty that they will actually reduce entanglement risk. Another commenter thought that NMFS should stop relying on current best fishing practices to reduce mortality and serious injury as these practices have been unsuccessful.

Response: NMFS believes that implementing the additional gear modifications in this final rule combined with the forthcoming final rules on Seasonal Area Management (SAM) and Dynamic Area Management (DAM) of lobster and gillnet fisheries will reduce interactions between right whales and fishing gear, and reduce serious injury and mortality of right whales due to entanglement in fishing gear. The RPAs in the June 14, 2001, BOs advised NMFS to, amongst other measures, expand additional gillnet and lobster pot gear modifications to avoid jeopardizing the continued existence of North Atlantic right whales (See preamble under Changes in the Final Rule from the Proposed Rule for discussion on the RPA and the southeast gillnet fishery). Since issuance of the BOs, NMFS has conducted additional analyses of available data including that on the seasonal movement and congregations of right whales, previous entanglements, and the nature and position of gear in the water. Based on these analyses and our knowledge of North Atlantic right whale behavior, NMFS has identified gear modifications that prevent serious injury or mortality. These additional gear modifications will be implemented with this final rule. NMFS considered multiple strategies to decrease gear interactions with large whales, including implementing gear modifications based on recent technological advances. Time/area closures have also been used under the ALWTRP to remove the potential for interaction between large whales and lobster and gillnet fisheries.

Comment 7: One commenter noted that NMFS must undertake an adequate program of research and development for the purpose of devising improved fishing methods and gear so as to reduce the incidental taking of right whales in commercial fishing. Two commenters noted that there should be aggressive gear research undertaken with promising innovations implemented in a timely manner.

Response: As part of the RPA in the BOs issued on June 14, 2001, NMFS noted the need for continued gear research and modification. NMFS is committed to gear research and development, and will expand this program as funding allows. NMFS has gear laboratories and research teams that specifically focus on gear development and testing. Additionally, NMFS contracts with researchers, individuals and companies to develop gear solutions. Much of the current take reduction plan measures are based on the outcome of such gear research (e.g., weak links) conducted and/or funded by NMFS. The gear modifications are important to reduce interactions between right whales (and other large whales) and fishing gear to further reduce serious injury and mortality of

large whales due to entanglement in fishing gear. In addition, NMFS intends to continue to support the contributions made by the ALWTRT's Gear Advisory Group. NMFS is collaborating with other organizations to host a gear workshop, tentatively scheduled for February 2002, to investigate additional options and gear enhancements for gillnet and lobster trap gear. The results of this workshop will be distributed to the ALWTRT for consideration of future gear recommendations to NMFS. (Also see response to comment 34).

Comment 8: Two commenters objected to the language in the BO that NMFS would use an entanglement by unidentified gear or gear approved for use in multi-species fisheries to generate a conclusion that the measures in the RPA are not demonstrably effective at reducing right whale injuries or death. They mentioned the gear could possibly be Canadian or from other sources of line. The commenters also felt that scarification is a poor indicator of whether the RPA is effective as scars can occur for a number of reasons, including interactions with fishing gear and vessels that are not serious.

Response: Although this comment is not related to the proposed rule for gear modifications, NMFS will take the comments under consideration.

Comment 9: One commenter urged the ALWTRT to continue to work with the Gear Advisory Group to explore and develop additional gear options that do not pose a risk to the large whale population.

Response: NMFS intends to continue to support studies on gear modifications to reduce interactions, and eliminate serious injury and mortality. NMFS sees the value of the contributions that the Gear Advisory Group can bring to the ALWTRT. NMFS is collaborating with other organizations to host a gear workshop in 2002 to investigate options for gillnet and lobster trap gear modifications to prevent serious injury to right whales that may become entangled in gillnet and lobster trap gear. The results of this workshop will be distributed to the ALWTRT for consideration in making additional recommendations to NMFS. NMFS will also be reconvening the Gear Advisory Group in 2002 and distributing the results of the gear workshop to participants.

Comment 10: NMFS should immediately identify at-sea enforcement as a high priority and develop protected resources penalty schedules for the ALWTRP.

Response: NMFS agrees that at-sea enforcement is important to the success of the ALWTRP and does conduct such enforcement. NMFS also relies on its partnership with the U.S. Coast Guard to monitor compliance with the ALWTRP. NMFS already has penalty schedules for violations of the MMPA, ESA, and regulations issued pursuant to those statutes.

Comment 11: The fishing industry was not notified of the publication of the proposed rule, and involving industry is crucial to the success or failure of these plans. A letter to permit holders, similar to what is done for fishery regulations, should have been sent to involve industry. Involving industry is crucial to the ALWTRP process.

Response: Given the current critical status of the right whale population and the aggregate effects of human-caused mortality that have led to the species' current status, the development of this final rule occurred during an accelerated rulemaking process. Time constraints prevented NMFS from holding public hearings on the current regulations; however, NMFS used other ways to let the public know that public comments were being sought on a proposed rule to address commercial fishery/large whale interactions. These efforts included distributing the information to ALWTRT members who represent various stakeholder groups and provide valuable links to distribute information to the public, issuing a NOAA press release and an announcement in NOAA's FishNews, providing notification through the **Federal Register**, and communicating with state managers. NMFS will consider other means of communicating with the public and welcomes recommendations on ways to disseminate such information, such as through letters to permit holders, as was suggested. NMFS agrees with the commenter that involving fishermen in the process is important to the success of the ALWTRP.

Comment 12: Three commenters noted that neutrally buoyant line holds promise as a measure to reduce risk of entanglements. Removing floating line from the water column is widely believed to be important to reducing risk to whales. Two of these commenters also made specific recommendations by management area for the lobster fishery: (1) Both commenters noted that the use of neutrally buoyant line should be required in the Northern Inshore Lobster Waters. One of these commenters thought this should be effective January 1, 2003, in the Cape Cod Bay Critical Habitat, and in the Northern Inshore State Lobster Waters Area effective January 1, 2004; (2) both commenters suggested NMFS require the use of neutrally buoyant line in offshore lobster trawl lines. One of these commenters suggested implementation by January 1, 2004; and (3) one commenter thought that NMFS must mandate the immediate use of neutrally buoyant line for all lobster ground lines, and another commenter suggested this requirement be mandated by 2004.

Response: Neutrally buoyant line is an important gear modification to reduce interactions between right whales and fishing gear by reducing the amount of line in the water column. NMFS has incorporated the option to use neutrally buoyant line into parts of the ALWTRP through this final rule.

NMFS will seek recommendations from the ALWTRT on whether to require neutrally buoyant line and how NMFS could implement such a requirement in the future. In addition, NMFS will continue to work with industry to incorporate neutrally buoyant or sinking line into their operation whenever possible.

NMFS is currently investigating issues such as the time to change over and other operational problems associated with the full utilization of neutrally buoyant line. For example, NMFS is working with a Gulf of Maine offshore lobster fisherman who is willing to change over all his buoy and ground lines to neutrally buoyant line for 1800 traps. This fisherman will provide monthly reports to the NMFS Gear Research Team on how the traps work with the line, how breaking strength holds up over time, and the life expectancy of the gear. NMFS is also beginning to investigate the manufacturing issues that may arise should this technology be used as a widespread risk reduction tool. These results will be presented to the ALWTRT for consideration. The NMFS' Gear Research Team has also supplied 90 miles (78.2 nm) of neutrally buoyant line to lobster and gillnet fishermen from Maine to Rhode Island to test the life expectancy of the line, how the breaking strength holds up over time, and other operational considerations. These results will also be provided to the ALWTRT for consideration. NMFS notes that the requirement to use neutrally buoyant line in a Seasonal Area Management (SAM) could mean benefits to whales if these same fishers use this gear in other areas. Fishermen and the NMFS Gear Research Team report that many fishermen from Maine through Rhode Island already use neutrally buoyant line as part of their fishing operation due to local tides and/or type of fishing bottom. NMFS appreciates the concern and effort

fishers have shown by switching to neutrally buoyant or sinking line to reduce gear interactions with large whales.

Comment 13: One commenter stated that weak links at buoy lines may offer little meaningful protection against entanglement risks. As most entangled whales are found without buoys, a weak link at the buoy may not increase the likelihood that a line sliding through a whale's mouth will break away before the whale becomes more entangled. It is questionable that a weak link strong enough to maintain fishing gear in an operable condition would fall free before a whale begins thrashing and becomes entangled. The commenter also suggested that NMFS should assess the effectiveness of knotless lines by examining lines removed from whales, as well as photos of the entangled whales, to evaluate the extent to which knots tied by fishermen may have contributed to the entanglement. The relative proportion of entangled whales with and without potential troublesome knots could provide a measure of the overall effectiveness of eliminating knots.

Response: NMFS believes that implementing the additional gear modifications in this final rule combined with the forthcoming final rules on SAM and DAM of lobster and gillnet fisheries will reduce interactions between right whales and fishing gear, and reduce serious injury and mortality of right whales due to entanglement in fishing gear. NMFS feels that weak links and installation of these in such a way that produces knotless ends if the weak link breaks are important gear modifications. Of the 15 right whale entanglements from 1997 through 2001 where gear was either recovered or documented, buoys were present in eight cases. NMFS will be conducting a similar analysis with other whale species.

NMFS has investigated whether an analysis on rope recovered from entangled whales could help determine the effectiveness of eliminating knots. However, NMFS does not usually have information on how the whale became entangled and in which part of the retrieved gear it was entangled. NMFS will continue to investigate this and work with others to obtain information to better assess large whale interactions with fishing gear.

In regard to the question of a weak link being strong enough to break free and maintain gear in operable condition, see summary on page 49899 of the proposed rule on gear modifications (66 FR 49896, October 1, 2001) of the right whale entanglement and subsequent gear analysis indicating that the surface system was separated from the buoy line going to the trawl by a 3,780-lb (1,714.3-kg) weak link. It appears the whale was able to part the gear at the 3,780-lb weak (1,714.3-kg) link although the whale was still entangled in gear. However, NMFS believes that the lower breaking strengths for weak links required in this final rule will provide improved protection for right whales. NMFS will continue working with others to develop additional gear modifications and appreciates hearing ideas from the public.

Southern Nearshore Lobster Waters Area

Comment 14: One commenter supported NMFS' proposal to replace the Lobster Gear Technology List with the following year-round gear modifications: (a) Installation of a weak link with a maximum breaking strength of 600 lb (272.4 kg) on the buoy line, and (b) installation of weak links such that if the lines were to break, they would produce knotless ends on the line.

Response: Research will continue to investigate alternative methods to connect lines.

Comment 15: One commenter opposed the elimination of the gear technology list for the Southern Nearshore Lobster Waters Area. The commenter noted that they should have an option list just like northern inshore areas are offered one.

Response: NMFS proposed to replace the Lobster Take Reduction Technology List with mandatory gear modifications based upon the recommendation of the ALWTRT Mid-Atlantic subgroup. NMFS believes that these mandatory gear modifications are necessary to reduce entanglements in this area.

Comment 16: One commenter supported reducing the current 1,100 lb (498.8 kg) breaking strength at the buoy to 600-lb (272.4 kg) breakaway for nearshore lobster areas due to research results, except for the Outer Cape or offshore due to difficult sea and current conditions.

Response: Current gear research indicates that a 600 lb (272.4 kg) breaking strength weak link is sufficient to protect whales, as well as to keep gear feasible in the Southern Nearshore Lobster Waters Area and prevent ghost gear. The 600 lb (272.4 kg) weak link requirement has been in effect since February 21, 2001, in the Northern Nearshore Lobster Waters Area, and the NMFS Gear Research Team has had very few problems reported to them regarding weak links. The NMFS Gear Research Team has conducted research on how much strain there is on inshore buoy systems on the Outer Cape. Inshore lobster buoys were towed up to 20 knots and a 120 lb (54.432 kg) strain was recorded. Load cells were also attached to large buoy systems in Grand Manan Channel, known for its strong tides (approx. 18 to 20 ft (5.49 m to 6.09 m)), and a 140 lb (63.5 kg) strain was recorded in the spring. For comparison, NMFS notes that in over a year of testing the highest maximum strain the NMFS Gear Research Team recorded on load cells attached to offshore lobster surface buoy systems was 535 lb (243 kg). NMFS cautions that recorded strains can not dictate weak link breaking strengths, as breaking strengths must include reasonable measures of safety that would help prevent gear from being lost at sea during the worst conditions. NMFS appreciates the commenter's general support for changes to other nearshore lobster areas.

Comment 17: Two commenters noted that neutrally buoyant line should be a requirement in the Southern Nearshore Lobster Waters Area as the lowered breaking strength of the weak link may not provide adequate risk reduction.

Response: Past entanglements provide evidence that weak links are a critical measure to prevent serious injury or mortality of marine mammals. NMFS believes that the use of a 600-lb (272.4-kg) weak link on the buoy line and knotless weak links would reduce risk of serious injury and death if an entanglement were to occur. In response to the comment on neutrally buoyant line, see response to comment 12.

Comment 18: One commenter noted that there is not sufficient research on the proposed weak links on a buoy line (not the breakaway at the buoy) to mandate a year-round requirement for all buoy lines in the southern nearshore areas. This commenter supported research to develop a weak link in the main buoy line.

Response: The proposed rule did not clearly indicate where in the buoy line the weak link is required. NMFS has clarified this in the regulatory text in this final rule. Specifically where fishermen are required to utilize buoy weak links, they will also be required to place the weak link as close to each individual buoy as operationally feasible. The NMFS Gear Research Team has already begun investigating development of a weak link in the main buoy line.

Offshore Lobster Waters Area

Comment 19: Two commenters did not support the proposal to reduce breaking strength of weak links in

offshore gear to 2,000 lb (906.9 kg). These commenters added that the breaking strength of 2,000 lb (906.9 kg) is approximately four times the maximum strain of 535 lb (243 kg), not three times as stated in the discussion of the proposed rule. Two commenters believed that the breaking strengths in both the offshore surface and buoy lines should be lowered. One of these commenters suggested that NMFS subdivide the offshore area to allow for the reduced breaking strengths of 600 lb (272.4 kg) at all buoys and the use of a weak link with a maximum breaking strength of 1500 lb (680.4 kg) between the surface system and the line to the trawl; and in offshore areas 1500 lb (680.4 kg) be required at all buoys and the line between the surface system and the trawl. All four of the commenters suggested NMFS should require breaking strengths to more closely reflect the maximum loads sustained by the gear as outlined in the final summary of the latest ALWTRT meeting in order to reduce entanglement risks.

Response: The breaking strength of 2,000 lb (906.9 kg) is more than three times the maximum strain of 535 pounds (243 kg) recorded on the buoy system of offshore lobster gear, not three times the maximum strain of 535 pounds (243 kg) as reported in the proposed rule. NMFS cautions that recorded strains can not dictate weak link breaking strengths, as breaking strengths must include reasonable measures of safety that would help prevent gear from being lost at sea during the worst conditions. NMFS believes that the required breaking strengths are both beneficial to whales and safe for the industry. The 2,000 lb (906.9 kg) breaking strength for year-round use in offshore lobster waters outside of SAM was arrived at through the TRT process. NMFS believes a reduction from the previously required 3,780-lb (1,714.3-kg) weak link to the 2,000 lb (906.9 kg) weak link required in this final rule is a substantial reduction and provides a conservation benefit to right whales. The NMFS Gear Research Team will continue load cell testing on offshore lobster gear and report their results to the ALWTRT. NMFS will continue to work with industry and others on this issue through the ALWTRT process, and will seek feedback from the ALWTRT, gear workshop participants, and the Gear Advisory Group on the most appropriate location(s) to conduct load cell testing on offshore lobster gear.

Comment 20: Two commenters noted that having two different breaking strengths in the gear is confusing to the industry and three commenters noted it is not protective of whales. These commenters believe that a 3,780-lb (1,714.3-kg) weak link at the surface buoy only helps if a whale becomes entangled above the weak link at the surface, and that this defeated the purpose of lowering the strength of the weak link at the buoys.

Response: NMFS has been conducting outreach to offshore lobster industry representatives on this issue and discussions with them and fishermen indicate that having different breaking strengths in their gear is not confusing. Rather, the industry understands why various breaking strengths may be needed and would rather make modifications based on what research indicates is needed to reduce interactions.

In response to comments questioning the conservation benefit of a 3,780-lb (1,714.3-kg) weak link at the line between the surface system and the buoy line leading down the trawl, NMFS has decided to withdraw this requirement at this time. NMFS proposed this requirement based on the analysis of offshore lobster gear recovered from an entangled right whale, as described in the proposed rule (66 FR 49896, October 1, 2001). As the results of the gear analysis seemed to indicate that the presence and location of the weak link in the gear may have prevented the animal from becoming further entangled in the buoy line below the weak link, NMFS proposed to require the installation of this weak link in offshore lobster traps. However, as there are concerns whether sufficient resistence would exist for a whale to part such a weak link given its position in the gear, NMFS has withdrawn this proposal. NMFS will discuss this analysis with the ALWTRT and continue load cell testing on offshore lobster gear as mentioned in the previous comment.

Comment 21: One commenter supported the weak link below the buoy on the offshore lobster gear. The commenter supported NMFS making this proposal based on detailed entanglement data.

Response: NMFS has decided not to implement this requirement at this time (see previous comment).

Comment 22: Two commenters generally agreed with the provisions in the proposed rule for the Offshore Lobster Waters Area, and one added that the breaking strengths noted in the proposed rule were a positive step toward further protection of right whales and other marine mammals. Both commenters noted that the 2,000-lb (906.9-kg) weak link was a compromise by the offshore industry, and stated that the offshore industry supported this recommendation contingent on the lack of lost or ghost gear produced by inclement weather.

Response: As described in the response to comment 19, NMFS will continue to conduct load cell testing on offshore lobster gear to investigate the operational forces experienced in this fishery under various conditions.

Comment 23: One commenter supported the installation of weak links so that if the lines were to break, they would produce knotless ends on the line.

Response: Broken weak links providing knotless ends on the line is important so that it will not become lodged in the whale's baleen or around an appendage of a whale.

Northeast and Mid-Atlantic Gillnet Waters Area

Comment 24: One commenter generally supported the extension of measures for gillnet gear from the northeast to mid-Atlantic waters. One commenter supported the proposal to require fishers in the mid-Atlantic to return all gillnet gear to port with their vessels or to anchor their gear.

Response: The need for additional gear modifications in these fisheries had been considered by the ALWTRT, but not implemented by the December 2000 interim final rule. The RPA developed in response to the Bos included additional gear modifications for the Mid-Atlantic gillnet and lobster trap fisheries that were necessary to avoid jeopardizing the continued existence of North Atlantic right whales.

Comment 25: One commenter opposed requiring weak links and Danforth anchors at both ends of the spot sink gillnet fishery in southeastern NC. As this fishery operates near or at the surf zone, the commenter was concerned that the weak links would cause the net to break when it is being dragged into calmer water, and a Danforth anchor would not enable the fishermen to drift with their nets to calmer water. The commenter thought these gear requirements should be exempted in the area due to this unique fishery.

Response: The gear requirements state that mid-Atlantic gillnet gear has to be anchored at each end of the net string with an anchor that has the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor, not necessarily a Danforth anchor. However, fishers do not have to use an anchor unless they return to port without their gear. NMFS recommends that spot gillnet fishers explore different ways to anchor their gear in this fishery. NMFS gear

specialists are available to consult with on these types of issues, but some suggestions include using other anchors that do not become entangled on the ocean bottom and are retrieved successfully from the bottom, but have the same holding power of at least a 22-lb (10.0-kg) Danforth-style anchor. In response to the comment on weak links, gear research studies that involved pulling a string of nets in the Gulf of Maine in up to 45 knots of wind in 100 fathoms of water and utilizing 1,100 lb (272.4 kg) weak links resulted in no failures. Thus, it is unlikely that the weak links in the spot gillnets would break during fishing operations. The NMFS Gear Research Team will continue to investigate weak links and various anchoring systems.

Comment 26: One commenter opposed the 1,100-lb (272.4-kg) maximum breaking strengths for the weak links and said that NMFS incorrectly stated that the ALWTRT Mid-Atlantic recommended 1,100 lb (272.4 kg) rather than 600 lb (272.4 kg). The full ALWTRT did not reach consensus on this point as the New Jersey state representative and fishermen said their fisheries were prosecuted similarly to the northeast, whereas Virginia and North Carolina fishermen were willing to adopt a 600-lb (272.4-kg) breaking strength. Representatives from environmental organizations were concerned that humpback entanglements off North Carolina and Virginia have appeared to increase, and scientists with experience in whale disentanglement have indicated that humpback whales do not appear to exert the same degree of force as right whales do to break free of gear. The commenter recommended that in areas south of New Jersey, NMFS should require gillnetters to install weak links with a maximum breaking strength of 600 lb (272.4 kg) in buoy line and in the center of the floatline on each net panel.

Response: NMFS has decided to require a breaking strength in Mid-Atlantic gear similar to that required in northeast gillnet gear until the gear research studies using load cells currently planned for the mid-Atlantic are conducted. Such studies are scheduled to occur during the winter of 2002 and a report will be provided at the next ALWTRT meeting. The ALWTRT including its New Jersey representative, and its Mid-Atlantic subgroup can discuss these results and come up with new recommendations to NMFS, if deemed necessary. In response to concerns about humpback whale entanglements off of North Carolina and Virginia, NMFS will continue to work through the ALWTRT process to address humpback whale entanglements in these areas. The BOs found jeopardy to right whales, not humpbacks, and the recommended RPA is designed to avoid jeopardy to right whales.

Southeast U.S. Restricted Area

Comment 27: One commenter supported the proposal to prohibit straight sets of gillnet at night between November 15 and March 31 in the southeast US unless the exemption under 50 CFR 229.32(f)(3)(iii), which relates to shark gillnets, applies.

Response: NMFS will not be implementing regulations on straight sets of gillnet in the Southeast U.S. restricted area at this time. Although this requirement was contained in the proposed rule, NMFS inadvertently omitted the analysis of its expected impacts from the EA/RIR. As a result, NMFS did not provide adequate information for the public to provide comment on the proposed provision. NMFS will provide the public another opportunity to comment on this provision and the necessary analytical documents as soon as possible.

Northern Inshore Lobster Waters and Lobster Take Reduction Technology List

Comment 28: Four commenters opposed dropping the 7/16-in (1.11-cm) diameter line option, two mentioned that most or all line removed from whales has been larger than 7/16 in (1.11 cm). Three commenters believed that dropping this option puts animals at greater risk because the use of thicker rope will no longer be discouraged. One of these commenters noted that the 7/16-in (1.11-cm) line should be replaced with more specific breakaway features only after they are field tested and found to be practical. The commenter added that many fishermen in the Cape Cod area have reported that by using line that measures only 5/16 in (.79 cm) or 3/8 in (.95 cm) in diameter they are contributing to risk reduction. These lines are comparatively lighter with lower breaking strengths than lines used in the past. One of these commenters also noted that with the elimination of 7/16 in (1.11 cm) or less diameter line, fishers fishing single traps on the Outer Cape have less options available for reducing the risk to whales because they have no ground lines and a strong current makes 600-lb (272.4-kg) breakaway buoys impractical (a lost buoy on a single trap means the trap is lost). The commenter would like to encourage the members if the Massachusetts's Lobstermen's Association to continue to use single pots in state waters to avoid ground lines and continue to use thinner ropes.

Response: The option of using buoy line of a diameter of 7/16 in (1.11 cm) or less was previously adopted as part of the ALWTRP based upon the breaking strength of 7/16 in (1.11 cm) line. This strategy assumed that using a line with a consistent diameter would result in a consistent breaking strength. However, experience has demonstrated that the breaking strength of 7/16 in (1.11 cm) line can vary dramatically. Weak links, or alternative techniques such as swivels, are expected to provide a more reliable and consistent breaking strength rather than using line diameter to predict breaking strength. NMFS does not believe fishermen will go to larger line than what they are currently using due to the costs involved in purchasing and incorporating the new line. Also, removing this option from the Lobster Take Reduction Technology List does not prevent a fisherman from continuing to use buoy line with a diameter of 7/16 in (1.11 cm) or less.

Field testing conducted by the NMFS Gear Research Team indicates that a 600-lb (272.4-kg) weak link will be feasible in this area. For specifics and in regard to the comment on field tests, see response to comment 16. The NMFS Gear Research Team will assist fishers in determining whether alternative devices will work and provide them with feedback on whether the breaking strength is in compliance with current ALWTRP regulations. NMFS would like to reiterate that fishers can still use 7/16 in (1.11 cm) or less diameter buoy line.

Comment 29: Four commenters noted that the use of 7/16 in (1.11 cm) line should be immediately discontinued as an option on the Lobster Take Reduction Technology List. One of these comments noted that since February 2000 the ALWTRT has been questioning the conservation risk reduction value of this option. Another agreed with NMFS that line thickness is not an appropriate entanglement risk reduction tool because line thickness has little bearing on breaking strength. However, the commenter did not think that the unacceptable wear in weak links should be a reason to delay the requirement as weak links could be replaced as necessary, pending the development of longer-lived links if that proves necessary. In addition, the commenter noted that other options aside from weak links can be chosen from the list and NMFS did not provide enough information on the prevalence of an unacceptable wear in weak links.

Response: NMFS agrees that the 7/16-in (1.11-cm) or less diameter buoy line option should be removed from the Lobster Take Reduction Technology

List. NMFS will be removing the option from the list effective January 1, 2003. NMFS believes that this is justified based on concerns expressed by some members of the ALWTRT Northeast subgroup that weak links may not be standing up well to inshore conditions and may be showing signs of abrasion and weakening with only a single season of use. An ALWTRT member brought a weak link showing this type of wear to the June 2001 ALWTRT meeting. NMFS believes that removing this option January 1, 2003, will enable fishermen and gear specialists to address this localized problem, and give fishermen time to incorporate an option into their fishing gear. The NMFS Gear Research Team will be available, if needed, to provide support in the development of alternative methods to achieve the purpose of the weak link requirement. NMFS will also conduct extensive outreach to fishing communities and industry associations throughout New England to inform inshore lobster fishermen of their ALWTRT requirements and encourage them to begin developing improved weak links or choosing a different option other than the 7/16 in (1.11 cm) or less diameter buoy line if they do not already meet the Lobster Take Reduction Technology List requirements. Those fishers who need to select another option will be encouraged to do so as soon as possible.

Comment 30: In the proposed rule, NMFS combined two options on the Lobster Take Reduction Technology List into one. The elimination of floating rope on ground line and the elimination of floating rope at the bottom of buoy lines are two options.

Response: NMFS agrees with the commenter that in the explanatory text of the proposed rule, NMFS incorrectly stated that comprising all buoy lines and ground lines with entirely sinking and/or neutrally buoyant line is one option. It was NMFS' intent that these be two options as indicated on page 49907 of the proposed rule (66 FR 49896, October 1, 2001) under the Lobster Take Reduction Technology List regulatory section where using entirely sinking and/or neutrally buoyant line on all buoy lines is one option and using entirely sinking and/or neutrally buoyant line on all ground lines is another option.

Comment 31: Three commenters supported the use of neutrally buoyant buoy and ground lines as an option to the Lobster Take Reduction Technology List, one noting that this should not be delayed until 2003.

Response: In response to the comment to not delay this option until 2003, NMFS notes that this option will go into effect in 2002 with this final rule.

Gillnet Take Reduction Technology List

Comment 32: The 7/16-in (1.11-cm) line should be replaced with more specific breakaway features only after they are field tested and found to be practical. If NMFS removed this option fishermen may opt for stronger lines. The commenter noted that many fishermen in the Cape Cod area have reported that by using lines that measure only 5/16 in or 3/8 in in diameter they are contributing to risk reduction. These lines are comparatively lighter with lower breaking strengths than lines used in the past.

Response: Fishermen can still use 7/16 in (1.11 cm) line; however, it can not be counted as an option from the Take Reduction Technology List. NMFS will continue its gear research to test the breaking strength of various lines and will continue to report these results to the ALWTRT for consideration. Also see response to comment 28.

Comment 33: Two commenters supported the removal of the 7/16-in (1.11-cm) or less line diameter from the technology list. However, one of these commenters noted that NMFS should ensure that the effective date for both gillnet and lobster fisheries is the same.

Response: Due to reported wear in the weak links in the Inshore Lobster Waters Area, NMFS has delayed requirements for this area (see response to comment 29).

Comment 34: Two commenters noted that the proposed rule indicated that the ALWTRT did not recommend changes to gillnet fisheries in the northeast. The ALWTRT did address such changes but was unable to reach consensus on them. NMFS has put little effort into developing innovative approaches to reducing risk from gillnet gear. If gillnet gear is to be used, risk reduction modifications must be implemented. These commenters also noted that there is a need to develop and implement new gillnet gear modifications in mid-Atlantic coastal and Northeast waters.

Response: NMFS is expanding gillnet gear modifications and restrictions in this final rule, as well as in the forthcoming final rules on SAM and DAM, which will reduce interactions between right whales and gillnet gear, and reduce serious injury and mortality of right whales due to entanglement in gillnet gear. The RPA in the June 14, 2001, BOs advised NMFS to, amongst other measures, expand additional gillnet and lobster pot gear modifications to avoid jeopardizing the continued existence of North Atlantic right whales. Since the issuance of the BOs, NMFS has conducted additional analysis of available data including that on the seasonal movement and congregations of right whales, previous entanglements, and the nature and position of gear in the water. Based on these analyses and our knowledge of North Atlantic right whale behavior, NMFS has identified gear modifications that prevent serious injury or mortality. These additional gear modifications will be implemented with this final rule.

NMFS continued gear research and modifications and these efforts include the RPA requirements to: (1) Host a workshop to investigate options for gillnet (and lobster) modifications to prevent serious injury from entangling right whales; (2) expanded research and testing on eliminating floating line in the anchor and buoy lines of gillnet gear (and lobster gear), and replacing it with neutrally buoyant line; (3) continued research on weak link float lines in gillnet gear to investigate the possibility of reducing the strength of gillnet float-lines, a known problem area in the entanglement of large whales; and (4) continued research on Mega-Float line in gillnets to eliminate external plastic floats combined with properly placed weak links. Additionally, NMFS will be conducting tests on how different types of weak links react to different types of anchoring systems; to do this NMFS will tow gillnets through the water to simulate a whale entanglement. NMFS has also contracted with a company to develop rope with uniform breaking strength to distribute to fishers for field testing. Additional efforts NMFS has conducted include hiring an outreach coordinator for the Southeast Region (similar to the position already in place in the Northeast) to conduct outreach on the various TRPs including the Atlantic Large Whale TRP, as well as to solicit gear modification ideas from fishers. NMFS will continue to work with the ALWTRT and seek input from the Gear Advisory Group (also see response to comment 9) to identify additional management measures in the gillnet fisheries.

Changes in the Final Rule From the Proposed Rule

NMFS proposed to require the installation of weak links with a maximum breaking strength of 3,780 lb (1,714.3 kg) in offshore lobster trap gear between the surface system (all surface buoys, the high flyer, and associated lines) and the buoy line leading down to the trawl. This proposed measure was the result of analysis conducted by NMFS from a successful disentanglement of a 7-year-old male

North Atlantic right whale, catalog #2427, on July 20, 2001. NMFS' analysis concluded that the gear recovered during the disentanglement and the description of the owner's typical gear configuration indicated that the surface system was separated from the buoy line going to the trawl by a weak link with a breaking strength of 3,780 lb (1,714.3 kg). It was felt that the presence and location of this weak link in the gear may have prevented the animal from becoming further entangled in the buoy line.

However, since the publication of this proposed measure, NMFS technical experts have re-evaluated this proposed measure. Although in theory the proposed measure would add an extra level of protection to potentially prevent the risk of serious injury to North Atlantic right whales should they become entangled in the buoy line, this measure is not practical from a mechanical standpoint. Operationally, having any weak link below the float system will essentially be ineffective. In order to break, a link would need to have adequate resistance from the relevant end of the gear. Given that any whale that is caught below the link would be pulling against nothing more than the surface system and the buoy, one cannot reasonably conclude that the resistance involved would be sufficient to trigger the break of the weak link. NMFS has reconsidered this measure and is not requiring the use of weak links between the surface system and the buoy line for the offshore lobster trap fishery. Therefore, in § 229.32, paragraph (c)(5)(ii)(B) of the proposed rule is removed from the final rule.

NMFS also proposed that fishermen with gillnets in the Southeast U.S. Restricted Area be prohibited from setting gillnets in straight sets at night during the restricted period, unless they meet the criteria for an exemption for shark gillnets that currently exists in the regulations. Although this requirement was contained in the proposed rule, NMFS inadvertently omitted the analysis of its expected impacts from the EA/RIR. As a result, NMFS did not provide adequate information for the public to provide comment on the proposed provision. NMFS will provide the public another opportunity to comment on this provision and the necessary analytical documents as soon as possible. Consequently, NMFS is eliminating this measure from the final rule by eliminating paragraph (f)(3)(iv) in § 229.32 of the proposed rule.

NMFS believes this final rule, in combination with the forthcoming rules for SAM and DAM, are collectively sufficient to remove the likelihood of jeopardy to the continued existence of North Atlantic right whales from the Northeast multispecies, spiny dogfish and monkfish gillnet, and American lobster fisheries as the Northeast Multispecies, Spiny Dogfish, and Monkfish FMPs do not incorporate southern U.S. waters. NMFS recently elevated Southeast Atlantic gillnet fisheries to Category II in the Final List of Fisheries for 2001 (66 FR 42780, August 15, 2001) due to their occasional interaction with bottlenose dolphins. The Southeast Atlantic gillnet fishery is separate from the Category II Southeastern U.S. Atlantic shark gillnet fishery presently regulated by the ALWTRP.

NMFS intends to consider implementation of this measure, after public review of its environmental and economic impact analysis, as soon as possible in 2002, but no later than November 1 when the whales are expected to return to this area. This delay is not expected to adversely affect North Atlantic right whales. Unlike the Northeast, there is no direct evidence of interactions between right whales and gillnets in the southeast region. However, the ALWTRT developed the proposed modifications in Southeast waters as a precautionary measure to address the potential rare occurrence of interaction and to offer additional protection to right whales.

A technical change was also made to correct and clarify the intent of the regulations. As proposed, lobster trap gear in the Southern Nearshore Waters Area and Offshore Lobster Waters Area, and gillnet gear in the Mid-Atlantic Coastal Waters are required to install weak links at the buoy. However, the proposed regulations were not clear as to the location of the installation of the weak links at the buoy. Therefore, in § 229.32, paragraph (c)(8)(ii) is revised to clarify the location of the buoy line weak links within the Southern Nearshore Lobster Waters Area, Offshore Lobster Waters Area, and Mid-Atlantic Coastal Waters.

Classification

NMFS prepared a FRFA for this final rule. A copy of this analysis is available from NMFS (see **ADDRESSES**). Four alternatives were evaluated, including a status quo or No Action alternative, the Preferred Alternative (PA), and two other alternatives. A summary of that analysis follows:

1. NMFS considered but rejected a No Action alternative that would result in no changes to the current measures under the Atlantic Large Whale Take Reduction Plan. The No Action alternative would result in no additional economic burden on the fishing industry, at least in the short-term. However, if the status quo is maintained now, more restrictive and economically burdensome measures than those in this final rule may be necessary in the future to protect endangered right whales from the fisheries. The No Action alternative was rejected because it would not enable NMFS to meet the RPA measures of the BO required under the ESA.

2. NMFS considered but rejected an alternative that would consist of the PA as well as the use of full weak links at the surface and bottom of the buoy line and the reduction of floating line. The operational impacts of the bottom weak link may be large for the fishermen and result in negative impacts on the North Atlantic right whale. The ability to haul back gear successfully while employing a bottom weak link has not been developed and the potential for gear loss is considered high at this point. Gear left on the bottom without surface representation, such as buoy or high flyer, is difficult to recover and becomes ghost gear which continues to fish and still presents an entanglement risk to the North Atlantic right whale.

3. NMFS considered but rejected an alternative that would consist of the PA as well as buoy line removal and the reduction of floating line. Complete removal of buoy line and reduction of floating line are recognized as the most risk averse technique for utilization of fixed gear. However, one of the major drawbacks of this alternative is that other fishermen will not know where gear has been set, and gear conflicts with both fixed and mobile gear are likely to result in lost and/or damaged gear possibly resulting in an increase in ghost gear. Ghost gear is a potential entanglement source and source of negative impacts on North Atlantic right whales. Thus, this option may only be feasible in areas where other gear cannot be set or can be strictly controlled.

4. The PA plan includes the expansion of gear modifications (e.g. weak links) to the Southern Nearshore Waters lobster trap and Mid-Atlantic Coastal Waters gillnet fisheries, and a reduction in the maximum breaking strength for buoy weak links used in the Offshore Lobster Waters Area. NMFS accepted this alternative as these gear modifications are necessary to avoid jeopardizing the continued existence of North Atlantic right whales and enable NMFS to meet a portion of the RPA in the BOs.

This action implements additional gear modifications to remove the likelihood of jeopardy of North Atlantic right whales posed by the continued operation of the multispecies, spiny

dogfish, monkfish and lobster fisheries as required in the RPA that resulted from the BOs issued by NMFS in accordance with section 7 of the ESA. The objective of the RPA is to eliminate mortality and serious injuries of right whales, eliminate serious and prolonged right whale entanglements, and significantly reduce the total number of right whale entanglements in the multispecies, spiny dogfish, monkfish and lobster fisheries.

NMFS has taken steps to minimize the significant economic impact on small entities through this PA. The PA meets a portion of the RPA designed to remove jeopardy, consistent with the requirements of the ESA, while allowing fishing to continue and, therefore, reduce economic impacts compared to fishery closures.

The small entities affected by this final rule are gillnet and lobster trap fishermen. The geographic range of the gear modifications will include the northern inshore area, southern nearshore area, offshore area, and the Mid-Atlantic waters area. The potential sizes of the fleets impacted are: the northern inshore fleet is potentially as large as 5,982 vessels, the southern nearshore fleet is potentially as large as 222 vessels, the offshore fleet is potentially as large as 172 vessels, and the Mid-Atlantic fleet is potentially as large as 625 vessels. This action contains no new reporting or record-keeping requirements. However, it does require modifications to lobster and sink gillnet gear. There are no relevant Federal rules that duplicate, overlap, or conflict with this final rule.

NMFS received only one public comment relating to the economic impacts of this final rule. This comment was considered by NMFS before it approved this final rule, and is characterized and responded to by NMFS in the ''Comments and Responses'' section of the preamble to this final rule, as comment/response number one. No changes to this final rule were made as a result of the comment received.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS determined that this action is consistent to the maximum extent practicable with the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. No state disagreed with our conclusion that this final rule is consistent with the enforceable policies of the approved coastal management program for that state.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

This final rule refers to a collection-of-information requirement subject to the Paperwork Reduction Act, namely a gear marking requirement, which has been previously approved by OMB under control number 0648–0364. The public reporting burden for this requirement is estimated to average .6 minutes per line. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

This final rule implements a portion of the RPA, which resulted from ESA section 7 consultations on three FMPs for the monkfish, spiny dogfish, and Northeast multispecies fisheries, and the Federal regulations for the American lobster fishery. This final rule implements a component of the RPA contained in the BOs issued by NMFS on June 14, 2001. Therefore, no further section 7 consultation is required.

This final rule contains policies with federalism implications that were sufficient to warrant consultations and preparation of a federalism summary impact statement under Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs provided notice of the proposed action to the appropriate official(s) of affected state, local and/or tribal government in October 2001. No comments on the federalism implications of the proposed action were received in response to the October 2001 letter.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Fisheries, Marine mammals, Reporting and record keeping requirements.

Dated: December 31, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1371 *et seq.*

2. In § 229.2, a definition of ''Neutrally buoyant line'' is added in alphabetical order to read as follows:

§ 229.2 Definitions.

* * * * *

Neutrally buoyant line means line with a specific gravity near that of sea water, so that the line neither sinks to the ocean floor nor floats at the surface, but remains close to the bottom.

* * * * *

3. In § 229.3, paragraph (k) is revised to read as follows:

§ 229.3 Prohibitions.

* * * * *

(k) It is prohibited to fish with gillnet gear in the areas and for the times specified in § 229.32(b)(2), (f)(1)(i), and (f)(1)(ii) unless the gear complies with the closures, marking requirements, modifications, and other restrictions specified in § 229.32(b)(3)(i), (b)(3)(ii), and (f)(2) through (f)(3)(iii).

* * * * *

4. Section 229.32 is amended by adding a note to the end of the section; revising the heading of the introductory text of paragraph (c)(5)(ii)(A); and revising paragraphs (c)(5)(ii)(A)(*2*), (c)(8)(ii), (c)(9)(i), (c)(9)(iii), (c)(9)(iv), (d)(7), and (d)(8) to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(c) * * *

(5) * * *

(ii) * * *

(A) *Weak links on all buoy lines.*

* * *

* * * * *

(*2*) The breaking strength of these weak links may not exceed 2,000 lb (906.9 kg).

* * * * *

(8) * * *

(ii) *Area-specific gear requirements for the restricted period—* (A) *Restricted period.* The restricted period for Southern Nearshore Lobster Waters is year round unless the Assistant Administrator revises this period in accordance with paragraph (g) of this section.

(B) *Gear requirements.* No person may fish with lobster trap gear in the Southern Nearshore Lobster Waters Area during the restricted period unless

that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal lobster trap gear requirements in paragraph (c)(1) of this section, and the following gear requirements for this area, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(*1*) *Buoy Line Weak Links.* All buoy lines must be attached to the main buoy with a weak link placed as close to each individual buoy as operationally feasible that meets the following specifications:

(*i*) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(*ii*) The breaking strength of this weak link may not exceed 600 lb (272.4 kg).

(*iii*) Weak links must be designed such that the bitter end of the buoy line is clean and free of knots when the link breaks. Splices are not considered to be knots for the purpose of this provision.

(*2*) [Reserved]

(9) * * *

(i) Through December 31, 2002, all buoy lines must be 7/16 inches (1.11 cm) or less in diameter.

* * * * *

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

(iv) All ground lines must be comprised entirely of sinking and/or neutrally buoyant line.

* * * * *

(d) * * *

(7) *Mid-Atlantic Coastal Waters Area*—(i) *Area.* The Mid-Atlantic Coastal Waters Area consists of all U.S. waters bounded by the line defined by the following points: The southern shore of Long Island, NY, at 72° 30′ W. long., then due south to 33° 51′ N. lat., thence west to the North Carolina-South Carolina border, as defined in § 229.2.

(ii) *Area-specific gear requirements.* No person may fish with anchored gillnet gear in the Mid-Atlantic Coastal Waters Area unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in paragraph (d)(1) of this section, and the following area-specific requirements, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(A) *Buoy line weak links.* All buoy lines must be attached to the main buoy with a weak link placed as close to each individual buoy as operationally feasible that meets the following specifications:

(*1*) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: Swivels, plastic weak links, rope of appropriate breaking strength, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(*2*) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(*3*) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered to be knots for the purposes of this provision.

(B) *Net panel weak links.* All net panels must contain weak links that meet the following specifications:

(*1*) Weak links must be inserted in the center of the floatline of each 50-fathom (300-ft or 91.4-m) net panel in a net string or every 25 fathoms for longer panels.

(*2*) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(C) *Tending/anchoring.* All gillnets must return to port with the vessel or be anchored at each end with an anchor capable of the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor.

(8) *Gillnet Take Reduction Technology List.* The following gear characteristics comprise the Gillnet Take Reduction Technology List:

(i) All buoy lines are attached to the buoy line with a weak link having a maximum breaking strength of up to 1,100 lb (498.8 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(ii) Weak links with a breaking strength of up to 1,100 lb (498.8 kg) must be inserted in the center of the floatline (headrope) of each 50 fathom net panel or every 25 fathoms for longer panels.

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

* * * * *

Note to § 229.32: Additional regulations that affect fishing with lobster trap gear have also been issued under authority of the Atlantic Coastal Fisheries Cooperative Management Act in part 697 of this title.

[FR Doc. 02–273 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 67, No. 7
Thursday, January 10, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV02–925–1 PR]

Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Desert Grape Administrative Committee (Committee) for the 2002 and subsequent fiscal periods from $0.01 to $0.015 per 18-pound lug of grapes handled. The Committee locally administers the marketing order which regulates the handling of grapes grown in a designated area of southeastern California. Authorization to assess grape handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins January 1 and ends December 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, Marketing Specialist or Kurt Kimmel, Regional Manager, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 925, both as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California grape handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable grapes beginning on January 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2002 and subsequent fiscal periods from $0.01 to $0.015 per 18-pound lug of grapes.

The grape marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California grapes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on November 5, 2001, and estimated a January 2002 beginning reserve of approximately $124,800, and unanimously recommended expenditures of $195,215 and an assessment rate of $0.015 per 18-pound lug of grapes for the 2002 fiscal period. In comparison, last year's budgeted expenditures were $186,023. The assessment rate of $0.015 is $0.005 higher than the rate currently in effect. The higher assessment rate is needed to offset increases in salaries and to keep the operating reserve at an adequate level.

The expenditures recommended by the Committee for the 2002 fiscal period include $100,000 for research, $28,200 for compliance activities, $41,000 for salaries, and $26,015 for other expenses. Budgeted expenses for these items in 2001 were $100,000, $35,200, $15,000, and $35,823, respectively.

The assessment rate recommended by the Committee was chosen because it will provide $142,500 in assessment income (9.5 million lugs × $.015 per lug) and, when $2,000 in interest income and $50,715 of its reserves are used for approved expenses, allow the Committee to end the 2002 fiscal period with a $74,085 reserve. The current rate of $.01 per lug would only generate $95,000 in assessment income, and require the Committee to use the $2,000 in interest and $98,215 of its reserves to cover its anticipated expenses. This would result in an ending reserve of $26,585, which was not acceptable to the Committee. The December 2002 ending reserve funds (estimated to be $74,085) with the new assessment rate would be kept within the maximum permitted by the order, approximately one fiscal period's expenses (§ 925.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2002 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 80 producers of grapes in the production area and approximately 26 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year about 69 percent of the handlers could be considered small businesses under SBA's definition and about 31 percent could be considered large businesses. It is estimated that about 88 percent of the producers have annual receipts less than $750,000. Therefore, the majority of handlers and producers of grapes may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2002 and subsequent fiscal periods from $0.01 to $0.015 per 18-pound lug of grapes. The Committee unanimously recommended expenditures of $195,215 and an assessment rate of $0.015 per 18-pound lug of grapes for the 2002 fiscal period. The proposed assessment rate of $0.015 is $0.005 higher than the 2001 rate. The volume of assessable grapes is estimated at 9.5 million 18-pound lugs. Thus, the $0.015 rate should provide $142,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserves should be adequate to cover budgeted expenses.

The expenditures recommended by the Committee for the 2002 fiscal period include $100,000 for research, $28,200 for compliance activities, $41,000 for salaries, and $26,015 for other expenses. Budgeted expenses for these items in 2001 were $100,000, $35,200, $15,000, and $35,823, respectively.

Prior to arriving at this budget, the Committee considered alternative expenditure levels, but ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate recommended by the Committee was derived using the following formula: Anticipated expenses ($195,215), plus the desired 2002 ending reserve ($74,085), minus the 2002 beginning reserve ($124,800), minus the anticipated interest income ($2,000), divided by the total estimated 2002 shipments (9.5 million 18-pound lugs). This calculation results in the $0.015 assessment rate. This rate would provide sufficient funds in combination with interest and reserve funds to meet the anticipated expenses of $195,215 and result in a December 2002 ending reserve of $74,085, which is acceptable to the Committee. The December 2002 ending reserve funds (estimated to be $74,085) would be kept within the maximum permitted by the order, approximately one fiscal period's expenses (§ 925.41).

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the on-vine grower price for the 2002 season could range between $5.00 and $9.00 per 18-pound lug of grapes. Therefore, the estimated assessment revenue for the 2002 fiscal period as a percentage of total grower revenue could range between 0.2 and 0.3 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order.

In addition, the Committee's meeting was widely publicized throughout the grape production area and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 5, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large production area grape handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop

marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2002 fiscal period begins on January 1, 2002, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable grapes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2002, an assessment rate of $0.015 per lug is established for grapes grown in a designated area of southeastern California.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–576 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV02–959–1 PR]

Onions Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Onion Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.03 to $0.05 per 50-pound container or equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456; Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.03 to $0.05 per 50-pound container or equivalent of onions.

The South Texas onion marketing order provides authority for the Committee, with the approval of USDA,

to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2000–01 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 12, 2001, and unanimously recommended 2001–02 expenses of $115,189.85 for personnel, office, compliance, and partial promotion expenses. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on October 10, 2001, and recommended 2001–02 expenditures of $449,189 and an assessment rate of $0.05 per 50-pound container or equivalent of onions. Ten of the 11 committee members present voted in support of the $0.02 per 50-pound container equivalent increase. One committee member abstained from voting. In comparison, last year's budgeted expenditures were $306,740. The assessment rate of $0.05 is $0.02 higher than the rate currently in effect. The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas onions, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $52,576. The Committee believes that a reserve that low is not adequate for its operations.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $75,190 for administrative expenses, $30,000 for compliance, $254,000 for promotion, and $90,000 for research projects. Budgeted expenses for these items in 2000–01 were $87,109, $27,498, $39,500, and $122,200, respectively. In addition, $30,435 was expended for a retirement package for the outgoing Committee manager.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the fiscal period are estimated at 7.5 million 50-pound equivalents, which should provide $375,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $276,705) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, § 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 78 producers of onions in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2000–01 marketing year, the industry's 40 handlers shipped onions produced on 15,166 acres with the average and median volume handled being 208,700 and 177,377 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 40 handlers were estimated to be $73,879,800, with average and median revenues being $1,846,995 and $1,569,786, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all of the 40 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 78 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed $750,000.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.03 to $0.05 per 50-pound container equivalent of onions. The Committee recommended 2001–02 expenditures of $449,189 and an assessment rate of $0.05 per 50-pound container or equivalent. The proposed assessment rate of $0.05 is $0.02 higher than the 2000–01 rate. The quantity of

assessable onions for the 2001–02 fiscal period is estimated at 7.5 million 50-pound equivalents. Thus, the $0.05 rate should provide $375,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $75,190 for administrative expenses, $30,000 for compliance, $254,000 for promotion, and $90,000 for research projects. Budgeted expenses for these items in 2000–01 were $87,109, $27,498, $39,500, and $122,200, respectively. In addition, $30,435 was expended for a retirement package for the outgoing Committee manager.

The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas onions, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $52,576. The Committee believes that a reserve that low is not adequate for its operations.

The Committee reviewed and recommended 2001–02 expenditures of $449,189, which included increases in research and promotion programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Committee's Executive Committee, the Research Subcommittee, and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research and promotion projects to the onion industry. The assessment rate of $0.05 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 7.5 million 50-pound equivalents for the 2001–02 fiscal period. This is approximately $74,190 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 fiscal period could range between $6 and $11 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between 0.45 and 0.83 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 10, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large production area commodity handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–02 fiscal period began on August 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2001, an assessment rate of $0.05 per 50-pound container or equivalent is established for South Texas onions.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–575 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV02–979–1 PR]

Melons Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Melon Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.05 to $0.06 per carton of melons handled. The Committee locally administers the marketing order which regulates the handling of melons grown in South Texas. Authorization to assess melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and

will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas melon handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable melons beginning on October 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.05 to $0.06 per carton of melons.

The South Texas melon marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are growers and handlers of South Texas melons. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee, met on September 25, 2001, and unanimously recommended 2001–02 expenses of $90,888 for personnel, office, compliance, and partial market development expenses. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on November 8, 2001, and unanimously recommended 2001–02 expenditures of $314,388 and an assessment rate of $0.06 per carton of melons. In comparison, last year's budgeted expenditures were $241,460. The assessment rate of $0.06 is $0.01 higher than the rate currently in effect. The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas melons, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $194,687, which is lower than what the Committee needs for operations. This amount is derived by taking the current reserve ($327,200), adding the $166,875 in assessment income based on the old rate (3,337,500 cartons × $0.05 per carton) and anticipated interest totaling $15,000, and then subtracting the 2001–02 budget of $314,388. With the new rate, $200,250 in assessment income would be generated, and the reserve fund would only drop to $228,062.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $60,888 for administrative expenses, $20,000 for compliance, $137,000 for market development, and $96,500 for research projects. Budgeted expenses for these items in 2000–01 were $70,351, $21,604, $25,000, and $96,500, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of South Texas melons, anticipated interest income, and the amount of funds in the Committee's operating reserve. Melon shipments for the fiscal period are estimated at 3,337,500 cartons, which should provide $200,250 in assessment income at the $0.06 per carton rate. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses for the 2001–02 fiscal period. Funds in the reserve (currently $327,200) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, § 979.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be

undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 33 growers of melons in the production area and approximately 22 handlers subject to regulation under the marketing order. Small agricultural growers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in growing, shipping, and marketing melons. For the 2000–01 marketing year, the industry's 22 handlers shipped melons produced on 6,979 acres with the average and median volume handled being 192,450 and 84,532 cartons, respectively. In terms of production value, total revenue for the 22 handlers was estimated to be $37,478,447, with the average and median revenues being $1,703,566 and $748,273, respectively.

The South Texas melon industry is characterized by growers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternate crops, like onions.

Based on the SBA's definition of small entities, the Committee estimates that half of the 22 handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. Of the 33 growers within the production area, few have sufficient acreage to generate sales in excess of $750,000; therefore, the majority of growers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.05 to $0.06 per carton of melons. The Committee unanimously recommended 2001–02 expenditures of $314,388 and the assessment rate of $0.06 per carton of melons. In comparison, last year's budgeted expenditures were $241,460. The proposed assessment rate of $0.06 is $0.01 higher than the rate currently in effect. At the rate of $0.06 per carton and an estimated 2001–02 melon production of 3,337,500 cartons, the projected income derived from handler assessments ($200,250), along with interest and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $60,888 for administrative expenses, $20,000 for compliance, $137,000 for market development, and $96,500 for research projects. Budgeted expenses for these items in 2000–01 were $70,351, $21,604, $25,000, and $96,500, respectively.

The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas melons, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $194,687, which is lower than what the Committee needs for operations. With the increased rate, the reserve fund would drop to $228,062.

The Committee voted to increase its assessment rate because the current rate would reduce the Committee's reserve funds beyond the level acceptable to the Committee. Assessment income, along with interest and funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 2001–02 fiscal period's expenses.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $314,388, which included an increase in its market development program. Prior to arriving at this budget, the Committee considered information from various sources, including the Research and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research and market development projects to the melon industry. The assessment rate of $0.06 per carton of assessable melons was then determined by considering the total recommended budget, the quantity of assessable melons estimated at 3,337,500 cartons for the 2001–02 fiscal period, anticipated interest income, and the funds in the Committee's operating reserve. The recommended rate will generate $200,250, which is $114,138 below the anticipated expenses. The Committee found this acceptable because interest and reserve funds will be used to make up the deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 marketing season could range between $7 and $11 per carton of cantaloupes and between $6 and $10 per carton of honeydew melons. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between 0.9 and 0.5 percent for cantaloupes and between 1.0 and 0.6 percent for honeydew melons.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas melon industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 8, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas melon handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–02 fiscal period began on October 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable melons handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is proposed to be amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 979.219 is revised to read as follows:

§ 979.219 Assessment rate.

On and after October 1, 2001, an assessment rate of $0.06 per carton is established for South Texas melons.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–577 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–27]

Proposed Establishment of Class E Airspace; Cecil County Airport (K58M), Elkton, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Cecil County Airport, (K58M), Elkton, MD. The development of Standard Instrument Approach Procedures (SIAP) at Cecil County Airport, Elkton, MD has made this proposal necessary. Sufficient controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an instrument approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before February 11, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–27, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace specialist, Airspace Branch, AEA–520 Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–27'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at K58M airport. The development of Standard Instrument Approach Procedures (SIAP) at Cecil County Airport, Elkton, MD has made this proposal necessary. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J dated August 31 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71–[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J dated August 31, 2001, and effective September 16, 2001, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA MD ES 5 Elkton, MD [NEW]

Cecil County Airport, MD

(Lat 39° 34′24″N.; long 75° 52′00″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Cecil County Airport, Elkton, MD.

Issued in Jamaica, New York on November 13, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–490 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 121801H]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (DSEIS); request for comments.

SUMMARY: The Caribbean Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environment of the management measure proposed in its draft Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (FMP). The purpose of this document is to solicit additional public comments on the scope of the issues to be addressed in the DSEIS, which will be submitted to NMFS for filing with the Environmental Protection Agency (EPA) for publication of a notice-of-availability for public comment.

DATES: Written comments on the scope of issues to be addressed in the DSEIS will be accepted through February 11, 2002.

ADDRESSES: Written comments should be sent to Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone: 787–766–5926; fax: 787–766–6239; or you can send comments by e-mail to: *Miguel.A.Rolon@noaa.gov* or *Graciela.Garcia-Moliner@noaa.gov*. Copies of the draft Amendment 2 and the preliminary DSEIS may be obtained by contacting the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; phone: 787–766-5926.

FOR FURTHER INFORMATION CONTACT: Graciela Garcia-Moliner; phone: 787-766-5926; e-mail: *Graciela.Garcia-Moliner@noaa.gov* or Dr. Peter J. Eldridge; phone: 727-570-5305; fax: 727-570-5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP was prepared by the Council and approved and implemented by NMFS under procedures of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The FMP's management measures for queen conch apply in the Exclusive Economic Zone (EEZ) in the U.S. Caribbean. For the purposes of the FMP and its implementing regulations, the U.S. Caribbean consists of the Federal waters beyond the 9–nautical mile boundary in Puerto Rico and beyond the 3–nautical mile boundary in St. Thomas, St. John, and St. Croix, U.S. Virgin Islands. The FMP currently establishes the following management measures for queen conch: (1) A 9–inch overall minimum size limit, or a 3/8–inch shell-lip thickness limitation on the possession of queen conch; (2) a requirement that all species in the management unit be landed in the shell and that the sale of undersized queen conch and queen conch shells be prohibited; (3) a bag limit of three queen conch/day for recreational fishers, not to exceed 12 per boat, and of 150 queen conch/day for licensed commercial fishers; (4) the closure of the harvest season from July 1 through September 30 of each consecutive year; and (5) the prohibition of harvesting queen conch by HOOKAH gear (under-water breathing equipment composed of a compressor aboard the vessel and a long hose thus enabling a diver to work under water for long periods of time) in the EEZ.

The Council is preparing draft FMP Amendment 2. The objectives of Amendment 2 are to address NMFS' determination that queen conch is overfished and is undergoing overfishing and to establish rebuilding measures. Amendment 2, in addressing these issues, proposes to prohibit the harvest and possession of queen conch in the Caribbean EEZ. The Council is preparing a DSEIS as an integrated part of Amendment 2. The DSEIS will describe the amendment's alternative management measures and will assess the environmental impacts of them. The Council is requesting written comments on the scope of the issues to be addressed in the DSEIS. Based on input received during 10 public hearings held in July 2000 (see notice of these hearings at 65 FR 40600) and in November 2001 (see notice of these hearings at 66 FR 55910), the Council intends to revise draft Amendment 2, as appropriate, and to finalize the DSEIS. At the July 2000 hearings, the Council changed the number of the Amendment from Amendment 1 to Amendment 2.

The proposed management measure has not been included in a previous FMP amendment. The Council invites the public to comment on the scope of the issues to be addressed by Amendment 2 and its DSEIS and on the types of environmental impacts associated with the various management measures, including the proposed measure discussed above.

Once the Council completes the DSEIS, it will submit it to NMFS for filing with EPA. EPA will publish a notice of availability of the DSEIS for public comment in the **Federal Register**. The DSEIS will have a 45–day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations. The Council will consider public comments received on the DSEIS before adopting final management measures for a final Amendment 2 and to prepare a final supplemental environmental impact statement (FSEIS) in support of its final Amendment 2. The Council would then submit the final Amendment 2 and supporting FSEIS to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Act. NMFS will announce availability of Amendment 2 for public review during the Secretarial review period through notice published in the Federal Register. During Secretarial review, NMFS will also file the FSEIS with EPA for a final 30-day public comment period on the FSEIS. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve Amendment 2. All public comment periods on Amendment 2, its proposed implementing regulations, and its associated FSEIS will be announced through notice published in the Federal Register. NMFS will consider all public comments received during the Secretarial review period for Amendment 2 (60-day period), whether they are on the amendment, the FSEIS, or the proposed regulations, prior to final agency action.

Dated: January 4, 2002.

Jonathan Kurland

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–645 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 010402A]

New England Fishery Management Council; Public Meeting Notification; Addendum

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Addendum to a public meeting notification.

SUMMARY: On December 28, 2001, NMFS published a **Federal Register** notification announcing that the New England Fishery Management Council (Council) will hold a 3–day Council meeting on January 15 through 17, 2002, to consider actions affecting New England fisheries in the exclusive economic zone. This notification serves as an addendum to that notification and announces that in addition to the agenda items announced in the December 28th **Federal Register** notification, there will be a closed session on January 16, 2002, to discuss the lawsuit concerning Framework 33 to the Northeast Multispecies Fishery Management Plan. In addition, certain agenda items have been rescheduled as identified in the **SUPPLEMENTARY INFORMATION** section of this notification.

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, January 15, 16, and 17, 2002. The meeting will begin at 9 a.m. on Tuesday and 8:30 a.m. on Wednesday and Thursday. The closed session will be held at approximately 5 p.m. on January 16, 2002.

ADDRESSES: The meeting will be held at the Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone (603) 436–2121. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: In addition to the agenda items announced in the meeting notification published in the **Federal Register** on December 28, 2001 (66 FR 67166), the Council intends to convene a closed session on January 16, 2002, following the scallop agenda item at approximately 5 p.m. During this portion of the meeting, the Council will discuss the *Conservation Law Foundation, et al.,* v. *Evans* lawsuit concerning Framework 33 to the Northeast Multispecies Fishery Management Plan and the Sustainable Fisheries Act requirements to address overfishing, stock rebuilding, and bycatch reduction.

Also, the Council announces that the briefing on the status of the U.S./Canada shared resources agreement originally scheduled for Tuesday, January 15th has been rescheduled for Thursday, January 17th. The Marine Protected Area Committee Report originally scheduled for Thursday, January 17th, will be given in place of the U.S. Canada Briefing on Tuesday, January 15th, following introductions.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notification and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: January 7, 2002.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–646 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 010302B]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska, King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands, Scallop and Salmon Fisheries Off the Coast of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of preliminary alternative approaches for essential fish habitat (EFH) and habitat areas of particular concern (HAPC); request for written comments.

SUMMARY: NMFS announces preliminary alternative approaches for the designation of EFH and HAPC for the following fishery management plans (FMPs): Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Groundfish of the Gulf of Alaska; Bering Sea/Aleutian Islands King and Tanner Crabs; Scallop Fishery off Alaska; and Salmon Fisheries in the EEZ off the Coast of Alaska.

DATES: Written comments on the preliminary alternative approaches for EFH and HAPC must be received by close of business on January 22, 2002 (see **ADDRESSES**).

ADDRESSES: Written comments on the preliminary alternative approaches for identifying and describing EFH and HAPC should be submitted to Theodore F. Meyers, Assistant Regional Administrator, Habitat Conservation Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall, Records Management Office. Comments may be sent via facsimile (fax) to (907) 586–7557. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann at (907) 586–7235.

SUPPLEMENTARY INFORMATION: On June 6, 2001, NMFS published a notice of intent to prepare an SEIS for the EFH components of the following management plans: Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Groundfish of the Gulf of Alaska; Bering Sea/Aleutian Islands King and Tanner Crabs; Scallop Fishery off Alaska; and Salmon Fisheries in the EEZ off the Coast of Alaska (66 FR 30396). NMFS requested written comments and gave notice of scoping meetings.

The proposed action to be addressed in the SEIS is the development of the mandatory EFH provisions of the affected FMPs as described in section 303 (a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and based on the guidance in the EFH regulations at 50 CFR 600 Subpart J. The following three types of actions will be specifically analyzed: (1) identify and describe EFH for managed species; (2) identify HAPCs within EFH; and (3) minimize, to the extent practicable, adverse effects on EFH caused by fishing. The scope of the new SEIS will cover all of the required EFH components of FMPs. The SEIS will supersede the environmental assessment (EA) previously prepared in support of the EFH amendments to the FMPs listed above.

In June 2001, NMFS held public scoping meetings in six communities. Written comments were accepted through July 21, 2001. A preliminary draft scoping report was available at the October 2001 Council meeting. NMFS held a technical workshop from November 6 through 8, 2001, to develop alternative approaches for the designation of EFH and HAPC. Alternative approaches for the designation of EFH and HAPC were developed based on significant issues raised during the scoping process. Recommendations for EFH and HAPC alternative approaches developed at the workshop were given to the Council's EFH Committee. NMFS, Council staff, and the EFH Committee presented potential draft alternative approaches for EFH and HAPC to the Council at its December 10, 2001, meeting. The Council adopted the EFH Committee's preliminary EFH and HAPC alternative approaches and will further develop EFH and HAPC alternative approaches and criteria at the February Council meeting. Other EFH and HAPC issues and questions will be discussed, such as HAPC site specific proposals and how to proceed with identifying fishing gear effects and possible measures to minimize those effects. The EFH and HAPC alternative approaches contained in the SEIS will then be analyzed further using the best available data to identify areas under the various approaches.

Alternative Approaches for Designation of EFH

The Magnuson-Stevens Act defines EFH as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' For purpose of interpreting the definition of EFH: ''Waters'' include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; ''substrate'' includes sediment, hard bottom, structures underlying the waters, and associated biological communities; ''necessary'' means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and ''spawning, breeding, feeding, or growth to maturity'' covers a species full life cycle. Four levels were identified to organize information necessary to describe and identify EFH. These four levels are: (1) Level 1: only distribution data are available to describe the geographic range of a species or life stage; (2) Level 2: quantitative data (i.e., density or relative abundance) are available for the habitats occupied by a species of life stage; (3) Level 3: data are available on habitat-related growth, reproduction, and/or survival by life stage; (4) Level 4: data are available that directly relate the production rates of a species of life stage to habitat type, quantity, quality, and location.

The Council is considering the following preliminary alternative approaches for the designation of EFH:

Alternative 1: no action, no EFH designation. The Council's action resulting from this alternative approach would be to change the FMPs from the current EFH amendment measures. This alternative approach is included to comply with the National Environmental Policy Act.

Alternative 2: status quo. EFH is defined on a species by species basis based on the general distribution of individual species and their life stages. Level 0 to 2 information levels are used in this alternative.

Alternative 3: species-based approach. EFH for each species or species group and life stage is separately designated. This alternative approach dictates that EFH be designated on the basis of the highest level of information available.

Alternative 4: ecosystem/habitat-based approach. This alternative approach specifies EFH designations relative to classification of habitat types occurring in the region and the assemblages of species and lifestages associated with them. Habitat types

would be defined into stages by the relevant physical and biotic data, including depth, substrate, and structure forming biota.

Alternative 5: core area-based approach. Designation of EFH for this alternative approach is limited to those core areas known to be critical to the production of species or species groups.

Alternative 6: exclusive economic zone (EEZ) waters approach. Under this alternative approach, EFH for FMP species is not designated in freshwater, estuarine or nearshore marine waters, and is designated only in waters of the EEZ.

Alternative Approaches for Designation of HAPC

HAPC are subsets of EFH. HAPC are those areas of special importance that may require additional protection from adverse effects. HAPC are defined on the basis of the ecological importance, sensitivity to human-induced environmental degradation, stress to the habitat from development activities, and rarity of the habitat.

The EFH Steering Committee recommends the following nomenclature be used for HAPC's: HAPC Category - Classification of HAPC type or site using established criteria; HAPC Area - can refer to either habitat ''type'' or ''site''; HAPC Type - general habitat description (e.g., corals, pinnacles); HAPC Site - can be stand-alone geographic location selected from HAPC criteria.

The Council is considering the following preliminary alternative approaches for the designation of HAPC:

Alternative 1: no action, no HAPC designation.

Alternative 2: status quo. The EFH amendments to the five Council FMPs listed above identified 3 types of habitat as HAPC (living substrates in shallow water, living substrates in deep waters, and freshwater areas used by anadromous fish) but did not map or designate specific areas as HAPC.

Alternative 3: species distribution, core-based approach. This alternative approach assumes that the distribution and abundance of species are indicators of critically important habitat types or sites that require special protection. As information between habitat and FMP species or ecosystem productivity becomes available, HAPC could be refined to a core habitat.

Alternative 4: habitat-eco-region/ ecological based approach. HAPC alternative approach 4 identifies habitat types or sites of ecological significance within eco-regions tiering down from EFH alternative approach 4. This alternative approach incorporates both habitat types and site specific designations and allows for different management actions among types and sites within regions.

Alternative 5: site-specific based approach. HAPC alternative approach 5 assumes that individual sites meeting one or more of the HAPC criteria may be designated as HAPC sites, which would require specific management objectives.

Alternative 6: type-site based approach. HAPC alternative approach 6 establishes HAPCs as individual sites selected from a sub-set of HAPC types.

More detailed information on these alternatives can be found on the Council and NMFS, Alaska Region, web sites. Links to these sites can be found at: *http://www.fakr.noaa.gov*.

Public Involvement

NMFS will work with the Council throughout the development of the SEIS. The Council has formed an EFH Committee to act as a steering committee for the EFH SEIS process and to facilitate public and Council input to the SEIS process. The public will be able to provide oral and written comments on EFH at Council meetings.

A principal objective of the public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will sharply define critical issues and provide a clear basis for defining those alternatives and choosing the preferred alternative. NMFS invites specific public comment on the preliminary alternative approaches for the designation of EFH and HAPCs for Council-managed species, on possible combinations of EFH and HAPC alternative approaches, and on the scientific basis for EFH and HAPC designations. NMFS also solicits any new information related to the impacts of fishing and non-fishing activities on EFH and HAPCs for fishery resources managed under the Council's FMPs and possible management measures designed to minimize adverse effects of fishing and non-fishing activities on EFH.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: January 4, 2002.

John M. Kurland

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–644 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 7
Thursday, January 10, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV02–925–1 PR]

Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Desert Grape Administrative Committee (Committee) for the 2002 and subsequent fiscal periods from $0.01 to $0.015 per 18-pound lug of grapes handled. The Committee locally administers the marketing order which regulates the handling of grapes grown in a designated area of southeastern California. Authorization to assess grape handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins January 1 and ends December 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, Marketing Specialist or Kurt Kimmel, Regional Manager, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 925, both as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California grape handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable grapes beginning on January 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2002 and subsequent fiscal periods from $0.01 to $0.015 per 18-pound lug of grapes.

The grape marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California grapes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on November 5, 2001, and estimated a January 2002 beginning reserve of approximately $124,800, and unanimously recommended expenditures of $195,215 and an assessment rate of $0.015 per 18-pound lug of grapes for the 2002 fiscal period. In comparison, last year's budgeted expenditures were $186,023. The assessment rate of $0.015 is $0.005 higher than the rate currently in effect. The higher assessment rate is needed to offset increases in salaries and to keep the operating reserve at an adequate level.

The expenditures recommended by the Committee for the 2002 fiscal period include $100,000 for research, $28,200 for compliance activities, $41,000 for salaries, and $26,015 for other expenses. Budgeted expenses for these items in 2001 were $100,000, $35,200, $15,000, and $35,823, respectively.

The assessment rate recommended by the Committee was chosen because it will provide $142,500 in assessment income (9.5 million lugs × $.015 per lug) and, when $2,000 in interest income and $50,715 of its reserves are used for approved expenses, allow the Committee to end the 2002 fiscal period with a $74,085 reserve. The current rate of $.01 per lug would only generate $95,000 in assessment income, and require the Committee to use the $2,000 in interest and $98,215 of its reserves to cover its anticipated expenses. This would result in an ending reserve of $26,585, which was not acceptable to the Committee. The December 2002 ending reserve funds (estimated to be $74,085) with the new assessment rate would be kept within the maximum permitted by the order, approximately one fiscal period's expenses (§ 925.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2002 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 80 producers of grapes in the production area and approximately 26 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year about 69 percent of the handlers could be considered small businesses under SBA's definition and about 31 percent could be considered large businesses. It is estimated that about 88 percent of the producers have annual receipts less than $750,000. Therefore, the majority of handlers and producers of grapes may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2002 and subsequent fiscal periods from $0.01 to $0.015 per 18-pound lug of grapes. The Committee unanimously recommended expenditures of $195,215 and an assessment rate of $0.015 per 18-pound lug of grapes for the 2002 fiscal period. The proposed assessment rate of $0.015 is $0.005 higher than the 2001 rate. The volume of assessable grapes is estimated at 9.5 million 18-pound lugs. Thus, the $0.015 rate should provide $142,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserves should be adequate to cover budgeted expenses.

The expenditures recommended by the Committee for the 2002 fiscal period include $100,000 for research, $28,200 for compliance activities, $41,000 for salaries, and $26,015 for other expenses. Budgeted expenses for these items in 2001 were $100,000, $35,200, $15,000, and $35,823, respectively.

Prior to arriving at this budget, the Committee considered alternative expenditure levels, but ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate recommended by the Committee was derived using the following formula: Anticipated expenses ($195,215), plus the desired 2002 ending reserve ($74,085), minus the 2002 beginning reserve ($124,800), minus the anticipated interest income ($2,000), divided by the total estimated 2002 shipments (9.5 million 18-pound lugs). This calculation results in the $0.015 assessment rate. This rate would provide sufficient funds in combination with interest and reserve funds to meet the anticipated expenses of $195,215 and result in a December 2002 ending reserve of $74,085, which is acceptable to the Committee. The December 2002 ending reserve funds (estimated to be $74,085) would be kept within the maximum permitted by the order, approximately one fiscal period's expenses (§ 925.41).

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the on-vine grower price for the 2002 season could range between $5.00 and $9.00 per 18-pound lug of grapes. Therefore, the estimated assessment revenue for the 2002 fiscal period as a percentage of total grower revenue could range between 0.2 and 0.3 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order.

In addition, the Committee's meeting was widely publicized throughout the grape production area and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 5, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large production area grape handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop

marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2002 fiscal period begins on January 1, 2002, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable grapes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2002, an assessment rate of $0.015 per lug is established for grapes grown in a designated area of southeastern California.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–576 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV02–959–1 PR]

Onions Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Onion Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.03 to $0.05 per 50-pound container or equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456; Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.03 to $0.05 per 50-pound container or equivalent of onions.

The South Texas onion marketing order provides authority for the Committee, with the approval of USDA,

to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2000–01 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 12, 2001, and unanimously recommended 2001–02 expenses of $115,189.85 for personnel, office, compliance, and partial promotion expenses. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on October 10, 2001, and recommended 2001–02 expenditures of $449,189 and an assessment rate of $0.05 per 50-pound container or equivalent of onions. Ten of the 11 committee members present voted in support of the $0.02 per 50-pound container equivalent increase. One committee member abstained from voting. In comparison, last year's budgeted expenditures were $306,740. The assessment rate of $0.05 is $0.02 higher than the rate currently in effect. The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas onions, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $52,576. The Committee believes that a reserve that low is not adequate for its operations.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $75,190 for administrative expenses, $30,000 for compliance, $254,000 for promotion, and $90,000 for research projects. Budgeted expenses for these items in 2000–01 were $87,109, $27,498, $39,500, and $122,200, respectively. In addition, $30,435 was expended for a retirement package for the outgoing Committee manager.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the fiscal period are estimated at 7.5 million 50-pound equivalents, which should provide $375,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $276,705) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, § 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 78 producers of onions in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2000–01 marketing year, the industry's 40 handlers shipped onions produced on 15,166 acres with the average and median volume handled being 208,700 and 177,377 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 40 handlers were estimated to be $73,879,800, with average and median revenues being $1,846,995 and $1,569,786, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all of the 40 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 78 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed $750,000.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.03 to $0.05 per 50-pound container equivalent of onions. The Committee recommended 2001–02 expenditures of $449,189 and an assessment rate of $0.05 per 50-pound container or equivalent. The proposed assessment rate of $0.05 is $0.02 higher than the 2000–01 rate. The quantity of

assessable onions for the 2001–02 fiscal period is estimated at 7.5 million 50-pound equivalents. Thus, the $0.05 rate should provide $375,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $75,190 for administrative expenses, $30,000 for compliance, $254,000 for promotion, and $90,000 for research projects. Budgeted expenses for these items in 2000–01 were $87,109, $27,498, $39,500, and $122,200, respectively. In addition, $30,435 was expended for a retirement package for the outgoing Committee manager.

The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas onions, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $52,576. The Committee believes that a reserve that low is not adequate for its operations.

The Committee reviewed and recommended 2001–02 expenditures of $449,189, which included increases in research and promotion programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Committee's Executive Committee, the Research Subcommittee, and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research and promotion projects to the onion industry. The assessment rate of $0.05 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 7.5 million 50-pound equivalents for the 2001–02 fiscal period. This is approximately $74,190 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 fiscal period could range between $6 and $11 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between 0.45 and 0.83 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 10, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large production area commodity handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–02 fiscal period began on August 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2001, an assessment rate of $0.05 per 50-pound container or equivalent is established for South Texas onions.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–575 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV02–979–1 PR]

Melons Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Melon Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.05 to $0.06 per carton of melons handled. The Committee locally administers the marketing order which regulates the handling of melons grown in South Texas. Authorization to assess melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and

will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas melon handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable melons beginning on October 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.05 to $0.06 per carton of melons.

The South Texas melon marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are growers and handlers of South Texas melons. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee, met on September 25, 2001, and unanimously recommended 2001–02 expenses of $90,888 for personnel, office, compliance, and partial market development expenses. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on November 8, 2001, and unanimously recommended 2001–02 expenditures of $314,388 and an assessment rate of $0.06 per carton of melons. In comparison, last year's budgeted expenditures were $241,460. The assessment rate of $0.06 is $0.01 higher than the rate currently in effect. The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas melons, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $194,687, which is lower than what the Committee needs for operations. This amount is derived by taking the current reserve ($327,200), adding the $166,875 in assessment income based on the old rate (3,337,500 cartons × $0.05 per carton) and anticipated interest totaling $15,000, and then subtracting the 2001–02 budget of $314,388. With the new rate, $200,250 in assessment income would be generated, and the reserve fund would only drop to $228,062.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $60,888 for administrative expenses, $20,000 for compliance, $137,000 for market development, and $96,500 for research projects. Budgeted expenses for these items in 2000–01 were $70,351, $21,604, $25,000, and $96,500, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of South Texas melons, anticipated interest income, and the amount of funds in the Committee's operating reserve. Melon shipments for the fiscal period are estimated at 3,337,500 cartons, which should provide $200,250 in assessment income at the $0.06 per carton rate. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses for the 2001–02 fiscal period. Funds in the reserve (currently $327,200) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, § 979.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be

undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 33 growers of melons in the production area and approximately 22 handlers subject to regulation under the marketing order. Small agricultural growers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in growing, shipping, and marketing melons. For the 2000–01 marketing year, the industry's 22 handlers shipped melons produced on 6,979 acres with the average and median volume handled being 192,450 and 84,532 cartons, respectively. In terms of production value, total revenue for the 22 handlers was estimated to be $37,478,447, with the average and median revenues being $1,703,566 and $748,273, respectively.

The South Texas melon industry is characterized by growers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternate crops, like onions.

Based on the SBA's definition of small entities, the Committee estimates that half of the 22 handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. Of the 33 growers within the production area, few have sufficient acreage to generate sales in excess of $750,000; therefore, the majority of growers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.05 to $0.06 per carton of melons. The Committee unanimously recommended 2001–02 expenditures of $314,388 and the assessment rate of $0.06 per carton of melons. In comparison, last year's budgeted expenditures were $241,460. The proposed assessment rate of $0.06 is $0.01 higher than the rate currently in effect. At the rate of $0.06 per carton and an estimated 2001–02 melon production of 3,337,500 cartons, the projected income derived from handler assessments ($200,250), along with interest and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $60,888 for administrative expenses, $20,000 for compliance, $137,000 for market development, and $96,500 for research projects. Budgeted expenses for these items in 2000–01 were $70,351, $21,604, $25,000, and $96,500, respectively.

The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas melons, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to $194,687, which is lower than what the Committee needs for operations. With the increased rate, the reserve fund would drop to $228,062.

The Committee voted to increase its assessment rate because the current rate would reduce the Committee's reserve funds beyond the level acceptable to the Committee. Assessment income, along with interest and funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 2001–02 fiscal period's expenses.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $314,388, which included an increase in its market development program. Prior to arriving at this budget, the Committee considered information from various sources, including the Research and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research and market development projects to the melon industry. The assessment rate of $0.06 per carton of assessable melons was then determined by considering the total recommended budget, the quantity of assessable melons estimated at 3,337,500 cartons for the 2001–02 fiscal period, anticipated interest income, and the funds in the Committee's operating reserve. The recommended rate will generate $200,250, which is $114,138 below the anticipated expenses. The Committee found this acceptable because interest and reserve funds will be used to make up the deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 marketing season could range between $7 and $11 per carton of cantaloupes and between $6 and $10 per carton of honeydew melons. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between 0.9 and 0.5 percent for cantaloupes and between 1.0 and 0.6 percent for honeydew melons.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas melon industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 8, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas melon handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–02 fiscal period began on October 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable melons handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is proposed to be amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 979.219 is revised to read as follows:

§ 979.219 Assessment rate.

On and after October 1, 2001, an assessment rate of $0.06 per carton is established for South Texas melons.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–577 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–27]

Proposed Establishment of Class E Airspace; Cecil County Airport (K58M), Elkton, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Cecil County Airport, (K58M), Elkton, MD. The development of Standard Instrument Approach Procedures (SIAP) at Cecil County Airport, Elkton, MD has made this proposal necessary. Sufficient controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an instrument approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before February 11, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–27, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace specialist, Airspace Branch, AEA–520 Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–27'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at K58M airport. The development of Standard Instrument Approach Procedures (SIAP) at Cecil County Airport, Elkton, MD has made this proposal necessary. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J dated August 31 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71–[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J dated August 31, 2001, and effective September 16, 2001, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA MD ES 5 Elkton, MD [NEW]

Cecil County Airport, MD

(Lat 39° 34′24″N.; long 75° 52′00″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Cecil County Airport, Elkton, MD.

Issued in Jamaica, New York on November 13, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–490 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 121801H]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (DSEIS); request for comments.

SUMMARY: The Caribbean Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environment of the management measure proposed in its draft Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (FMP). The purpose of this document is to solicit additional public comments on the scope of the issues to be addressed in the DSEIS, which will be submitted to NMFS for filing with the Environmental Protection Agency (EPA) for publication of a notice-of-availability for public comment.

DATES: Written comments on the scope of issues to be addressed in the DSEIS will be accepted through February 11, 2002.

ADDRESSES: Written comments should be sent to Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone: 787–766–5926; fax: 787–766–6239; or you can send comments by e-mail to: *Miguel.A.Rolon@noaa.gov* or *Graciela.Garcia-Moliner@noaa.gov*. Copies of the draft Amendment 2 and the preliminary DSEIS may be obtained by contacting the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; phone: 787–766-5926.

FOR FURTHER INFORMATION CONTACT: Graciela Garcia-Moliner; phone: 787-766-5926; e-mail: *Graciela.Garcia-Moliner@noaa.gov* or Dr. Peter J. Eldridge; phone: 727-570-5305; fax: 727-570-5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP was prepared by the Council and approved and implemented by NMFS under procedures of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The FMP's management measures for queen conch apply in the Exclusive Economic Zone (EEZ) in the U.S. Caribbean. For the purposes of the FMP and its implementing regulations, the U.S. Caribbean consists of the Federal waters beyond the 9–nautical mile boundary in Puerto Rico and beyond the 3–nautical mile boundary in St. Thomas, St. John, and St. Croix, U.S. Virgin Islands. The FMP currently establishes the following management measures for queen conch: (1) A 9–inch overall minimum size limit, or a 3/8–inch shell-lip thickness limitation on the possession of queen conch; (2) a requirement that all species in the management unit be landed in the shell and that the sale of undersized queen conch and queen conch shells be prohibited; (3) a bag limit of three queen conch/day for recreational fishers, not to exceed 12 per boat, and of 150 queen conch/day for licensed commercial fishers; (4) the closure of the harvest season from July 1 through September 30 of each consecutive year; and (5) the prohibition of harvesting queen conch by HOOKAH gear (under-water breathing equipment composed of a compressor aboard the vessel and a long hose thus enabling a diver to work under water for long periods of time) in the EEZ.

The Council is preparing draft FMP Amendment 2. The objectives of Amendment 2 are to address NMFS' determination that queen conch is overfished and is undergoing overfishing and to establish rebuilding measures. Amendment 2, in addressing these issues, proposes to prohibit the harvest and possession of queen conch in the Caribbean EEZ. The Council is preparing a DSEIS as an integrated part of Amendment 2. The DSEIS will describe the amendment's alternative management measures and will assess the environmental impacts of them. The Council is requesting written comments on the scope of the issues to be addressed in the DSEIS. Based on input received during 10 public hearings held in July 2000 (see notice of these hearings at 65 FR 40600) and in November 2001 (see notice of these hearings at 66 FR 55910), the Council intends to revise draft Amendment 2, as appropriate, and to finalize the DSEIS. At the July 2000 hearings, the Council changed the number of the Amendment from Amendment 1 to Amendment 2.

The proposed management measure has not been included in a previous FMP amendment. The Council invites the public to comment on the scope of the issues to be addressed by Amendment 2 and its DSEIS and on the types of environmental impacts associated with the various management measures, including the proposed measure discussed above.

Once the Council completes the DSEIS, it will submit it to NMFS for filing with EPA. EPA will publish a notice of availability of the DSEIS for public comment in the **Federal Register**. The DSEIS will have a 45–day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations. The Council will consider public comments received on the DSEIS before adopting final management measures for a final Amendment 2 and to prepare a final supplemental environmental impact statement (FSEIS) in support of its final Amendment 2. The Council would then submit the final Amendment 2 and supporting FSEIS to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Act. NMFS will announce availability of Amendment 2 for public review during the Secretarial review period through notice published in the Federal Register. During Secretarial review, NMFS will also file the FSEIS with EPA for a final 30-day public comment period on the FSEIS. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve Amendment 2. All public comment periods on Amendment 2, its proposed implementing regulations, and its associated FSEIS will be announced through notice published in the Federal Register. NMFS will consider all public comments received during the Secretarial review period for Amendment 2 (60-day period), whether they are on the amendment, the FSEIS, or the proposed regulations, prior to final agency action.

Dated: January 4, 2002.

Jonathan Kurland

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–645 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 010402A]

New England Fishery Management Council; Public Meeting Notification; Addendum

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Addendum to a public meeting notification.

SUMMARY: On December 28, 2001, NMFS published a **Federal Register** notification announcing that the New England Fishery Management Council (Council) will hold a 3–day Council meeting on January 15 through 17, 2002, to consider actions affecting New England fisheries in the exclusive economic zone. This notification serves as an addendum to that notification and announces that in addition to the agenda items announced in the December 28th **Federal Register** notification, there will be a closed session on January 16, 2002, to discuss the lawsuit concerning Framework 33 to the Northeast Multispecies Fishery Management Plan. In addition, certain agenda items have been rescheduled as identified in the **SUPPLEMENTARY INFORMATION** section of this notification.

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, January 15, 16, and 17, 2002. The meeting will begin at 9 a.m. on Tuesday and 8:30 a.m. on Wednesday and Thursday. The closed session will be held at approximately 5 p.m. on January 16, 2002.

ADDRESSES: The meeting will be held at the Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone (603) 436–2121. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: In addition to the agenda items announced in the meeting notification published in the **Federal Register** on December 28, 2001 (66 FR 67166), the Council intends to convene a closed session on January 16, 2002, following the scallop agenda item at approximately 5 p.m. During this portion of the meeting, the Council will discuss the *Conservation Law Foundation, et al.,* v. *Evans* lawsuit concerning Framework 33 to the Northeast Multispecies Fishery Management Plan and the Sustainable Fisheries Act requirements to address overfishing, stock rebuilding, and bycatch reduction.

Also, the Council announces that the briefing on the status of the U.S./Canada shared resources agreement originally scheduled for Tuesday, January 15th has been rescheduled for Thursday, January 17th. The Marine Protected Area Committee Report originally scheduled for Thursday, January 17th, will be given in place of the U.S. Canada Briefing on Tuesday, January 15th, following introductions.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notification and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: January 7, 2002.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–646 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 010302B]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska, King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands, Scallop and Salmon Fisheries Off the Coast of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of preliminary alternative approaches for essential fish habitat (EFH) and habitat areas of particular concern (HAPC); request for written comments.

SUMMARY: NMFS announces preliminary alternative approaches for the designation of EFH and HAPC for the following fishery management plans (FMPs): Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Groundfish of the Gulf of Alaska; Bering Sea/Aleutian Islands King and Tanner Crabs; Scallop Fishery off Alaska; and Salmon Fisheries in the EEZ off the Coast of Alaska.

DATES: Written comments on the preliminary alternative approaches for EFH and HAPC must be received by close of business on January 22, 2002 (see **ADDRESSES**).

ADDRESSES: Written comments on the preliminary alternative approaches for identifying and describing EFH and HAPC should be submitted to Theodore F. Meyers, Assistant Regional Administrator, Habitat Conservation Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall, Records Management Office. Comments may be sent via facsimile (fax) to (907) 586–7557. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann at (907) 586–7235.

SUPPLEMENTARY INFORMATION: On June 6, 2001, NMFS published a notice of intent to prepare an SEIS for the EFH components of the following management plans: Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Groundfish of the Gulf of Alaska; Bering Sea/Aleutian Islands King and Tanner Crabs; Scallop Fishery off Alaska; and Salmon Fisheries in the EEZ off the Coast of Alaska (66 FR 30396). NMFS requested written comments and gave notice of scoping meetings.

The proposed action to be addressed in the SEIS is the development of the mandatory EFH provisions of the affected FMPs as described in section 303 (a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and based on the guidance in the EFH regulations at 50 CFR 600 Subpart J. The following three types of actions will be specifically analyzed: (1) identify and describe EFH for managed species; (2) identify HAPCs within EFH; and (3) minimize, to the extent practicable, adverse effects on EFH caused by fishing. The scope of the new SEIS will cover all of the required EFH components of FMPs. The SEIS will supersede the environmental assessment (EA) previously prepared in support of the EFH amendments to the FMPs listed above.

In June 2001, NMFS held public scoping meetings in six communities. Written comments were accepted through July 21, 2001. A preliminary draft scoping report was available at the October 2001 Council meeting. NMFS held a technical workshop from November 6 through 8, 2001, to develop alternative approaches for the designation of EFH and HAPC. Alternative approaches for the designation of EFH and HAPC were developed based on significant issues raised during the scoping process. Recommendations for EFH and HAPC alternative approaches developed at the workshop were given to the Council's EFH Committee. NMFS, Council staff, and the EFH Committee presented potential draft alternative approaches for EFH and HAPC to the Council at its December 10, 2001, meeting. The Council adopted the EFH Committee's preliminary EFH and HAPC alternative approaches and will further develop EFH and HAPC alternative approaches and criteria at the February Council meeting. Other EFH and HAPC issues and questions will be discussed, such as HAPC site specific proposals and how to proceed with identifying fishing gear effects and possible measures to minimize those effects. The EFH and HAPC alternative approaches contained in the SEIS will then be analyzed further using the best available data to identify areas under the various approaches.

Alternative Approaches for Designation of EFH

The Magnuson-Stevens Act defines EFH as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' For purpose of interpreting the definition of EFH: ''Waters'' include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; ''substrate'' includes sediment, hard bottom, structures underlying the waters, and associated biological communities; ''necessary'' means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and ''spawning, breeding, feeding, or growth to maturity'' covers a species full life cycle. Four levels were identified to organize information necessary to describe and identify EFH. These four levels are: (1) Level 1: only distribution data are available to describe the geographic range of a species or life stage; (2) Level 2: quantitative data (i.e., density or relative abundance) are available for the habitats occupied by a species of life stage; (3) Level 3: data are available on habitat-related growth, reproduction, and/or survival by life stage; (4) Level 4: data are available that directly relate the production rates of a species of life stage to habitat type, quantity, quality, and location.

The Council is considering the following preliminary alternative approaches for the designation of EFH:

Alternative 1: no action, no EFH designation. The Council's action resulting from this alternative approach would be to change the FMPs from the current EFH amendment measures. This alternative approach is included to comply with the National Environmental Policy Act.

Alternative 2: status quo. EFH is defined on a species by species basis based on the general distribution of individual species and their life stages. Level 0 to 2 information levels are used in this alternative.

Alternative 3: species-based approach. EFH for each species or species group and life stage is separately designated. This alternative approach dictates that EFH be designated on the basis of the highest level of information available.

Alternative 4: ecosystem/habitat-based approach. This alternative approach specifies EFH designations relative to classification of habitat types occurring in the region and the assemblages of species and lifestages associated with them. Habitat types

would be defined into stages by the relevant physical and biotic data, including depth, substrate, and structure forming biota.

Alternative 5: core area-based approach. Designation of EFH for this alternative approach is limited to those core areas known to be critical to the production of species or species groups.

Alternative 6: exclusive economic zone (EEZ) waters approach. Under this alternative approach, EFH for FMP species is not designated in freshwater, estuarine or nearshore marine waters, and is designated only in waters of the EEZ.

Alternative Approaches for Designation of HAPC

HAPC are subsets of EFH. HAPC are those areas of special importance that may require additional protection from adverse effects. HAPC are defined on the basis of the ecological importance, sensitivity to human-induced environmental degradation, stress to the habitat from development activities, and rarity of the habitat.

The EFH Steering Committee recommends the following nomenclature be used for HAPC's: HAPC Category - Classification of HAPC type or site using established criteria; HAPC Area - can refer to either habitat ''type'' or ''site''; HAPC Type - general habitat description (e.g., corals, pinnacles); HAPC Site - can be stand-alone geographic location selected from HAPC criteria.

The Council is considering the following preliminary alternative approaches for the designation of HAPC:

Alternative 1: no action, no HAPC designation.

Alternative 2: status quo. The EFH amendments to the five Council FMPs listed above identified 3 types of habitat as HAPC (living substrates in shallow water, living substrates in deep waters, and freshwater areas used by anadromous fish) but did not map or designate specific areas as HAPC.

Alternative 3: species distribution, core-based approach. This alternative approach assumes that the distribution and abundance of species are indicators of critically important habitat types or sites that require special protection. As information between habitat and FMP species or ecosystem productivity becomes available, HAPC could be refined to a core habitat.

Alternative 4: habitat-eco-region/ ecological based approach. HAPC alternative approach 4 identifies habitat types or sites of ecological significance within eco-regions tiering down from EFH alternative approach 4. This alternative approach incorporates both habitat types and site specific designations and allows for different management actions among types and sites within regions.

Alternative 5: site-specific based approach. HAPC alternative approach 5 assumes that individual sites meeting one or more of the HAPC criteria may be designated as HAPC sites, which would require specific management objectives.

Alternative 6: type-site based approach. HAPC alternative approach 6 establishes HAPCs as individual sites selected from a sub-set of HAPC types.

More detailed information on these alternatives can be found on the Council and NMFS, Alaska Region, web sites. Links to these sites can be found at: *http://www.fakr.noaa.gov*.

Public Involvement

NMFS will work with the Council throughout the development of the SEIS. The Council has formed an EFH Committee to act as a steering committee for the EFH SEIS process and to facilitate public and Council input to the SEIS process. The public will be able to provide oral and written comments on EFH at Council meetings.

A principal objective of the public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will sharply define critical issues and provide a clear basis for defining those alternatives and choosing the preferred alternative. NMFS invites specific public comment on the preliminary alternative approaches for the designation of EFH and HAPCs for Council-managed species, on possible combinations of EFH and HAPC alternative approaches, and on the scientific basis for EFH and HAPC designations. NMFS also solicits any new information related to the impacts of fishing and non-fishing activities on EFH and HAPCs for fishery resources managed under the Council's FMPs and possible management measures designed to minimize adverse effects of fishing and non-fishing activities on EFH.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: January 4, 2002.

John M. Kurland

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–644 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 7

Thursday, January 10, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–045N]

Codex Alimentarius Commission: 3rd Session, Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), are sponsoring two public meetings on Wednesday, January 9, 2002, and on Tuesday, February 12, 2002, to present and receive comment on draft United States positions on all issues coming before the *3rd* Session of the Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology, which will be held in Yokohama, Japan, March 4–8, 2002. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 3rd Session, Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology.

DATES: The public meetings are scheduled for Wednesday, January 9, 2002 from 1 p.m. to 4 p.m., and Thursday, February 12, 2002 from 1 p.m. to 4 p.m.

ADDRESSES: The public meetings will be held in Conference Room 1409, Federal Office Building 8, 200 C Street, SW., Washington, DC 20204. To review copies of the documents referenced in this notice, contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/ccfbt3/bt0201e.htm* Send comments, in triplicate, to the FSIS Docket Room and reference Docket #01–045N. Commenters should reference the document relevant to their comments. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, Telephone (202) 205–7760, Fax (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Clerkin at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. The Commission, at its 23rd Session, established the Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology to develop standards, guidelines, or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate, to other legitimate factors relevant to the health of consumers and the promotion of fair trade practices. The Task Force is chaired by the government of Japan.

Issues To Be Discussed at the Public Meeting

The provisional agenda items and the relevant documents to be discussed during the public meeting are:

1. Matters Referred to the Task Force by Other Codex Committees; Document CX/FBT 02/2

2. Matters of Interest from Other International Organizations with respect to the Evaluation of the Safety and Nutrition Aspects of Foods Derived from Biotechnology; Document CX/FBT 02/3

3. Consideration of Draft Principles for the Risk Analysis of Foods Derived from Modern Biotechnology, at Step 7; Document ALINORM 01/34A Appendix II; Government Comments at Step 6; Document CX/FBT 02/4

4. Draft Guidelines and Annex

(a) Consideration of Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants at Step 7; Document ALINORM 01/34A Appendix III;

—Government Comments at Step 6; Document CX/FBT 02/5;

—Proposed Revised Text on the Section Entitled ''Assessment of Possible Toxicity'' from the Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants; Document CL 2001/38–FBT, Annex II;

—Response to Questions from the Chair of the Task Force put forward for consideration by the Working Group; Document CL 2001/38–FBT, Annex II;

—Government Comments on the above two documents (CL 2001/38–FBT Annex II and Annex III) at Step 6; Document CX/FBT 02/5 Add.1;

(b) Consideration of Proposed Draft Annex on the Assessment of Possible Allergenicity of the Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants at Step 4; Document CL 2001/38–FBT, Annex I

—Government Comments at Step 3; Document CX/FBT 02/6

5. Consideration of Proposed Draft Guideline for the Conduct of Food Safety Assessment of Recombinant-DNA Microorganisms in Food at Step 4; Document CX/FBT 02/7;

—Government Comments at Step 3; Document CX/FBT 02/7 Add.1

6. Discussion Papers on Traceability; Document CL 2001/27–FBT;

—Government Comments; Document CX/FBT 02/8

7. Consideration of Analytical Methods; Document CX/FBT 02/9

8. Other Business, Future Work and Date and Place of Next Session

In advance of these meetings, the U.S. Delegate to the Task Force will have assigned responsibility for development of U.S. positions on these issues to members of government. The individuals assigned responsibility will be named at this meeting and will take comment on and develop draft U.S positions. All interested parties are invited to provide information and comments on the above issues, or on any other issues that may be brought before the Task Force.

Public Meeting

At the January 9th public meeting, the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. At the February 12th public meeting, draft United States' positions on the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may also be sent to the FSIS Docket Room (see **ADDRESSES**). Please state that your comments relate to Task Force activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: January 8, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 02–739 Filed 1–8–02; 1:15 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Moose Post Fire Project, Flathead National Forest, Flathead County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; Intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for a proposal to manage forest resources within and adjacent to the Moose Fire affected area, which burned 70,000 acres in August–September of 2001 (approximately 35,000 acres burned on lands administrated by the Forest Service). The project area is on the Glacier View Ranger District, Flathead National Forest, and is bordered on the east by Glacier National Park and the North Fork of the Flathead River, on the north by the Coal Creek State Forest, and on the west by the Whitefish Divide. The city of Columbia Falls, Montana is located about 10 air miles to the southeast.

DATES: Comments concerning the scope of the analysis should be received in writing on or before 30 days after publication of this notice in the **Federal Register**. The draft EIS is expected to be filed with the Environmental Protection Agency and made available for public review in May 2002. No date has yet been determined for filing the final EIS.

ADDRESSES: Send written comments to Jimmy DeHerrera, District Ranger, P.O. Box 190340, Hungry Horse, Montana 59919 or call (406) 387–3800.

FOR FURTHER INFORMATION CONTACT: Michele Draggoo, Planning Team Leader, (406) 387–3827.

SUPPLEMENTARY INFORMATION: The Moose Fire created a situation that is very favorable for the development of spruce beetle and Douglas-fir beetle epidemic conditions. The fire severely weakened or killed large numbers of spruce and Douglas-fir, and the beetles are well adapted to capitalize on such events. Spruce bark beetles were found in endemic levels prior to the fire and Douglas-fir bark beetles were building in several areas across the Flathead National Forest including in the vicinity of the Moose Fire area.

Beetle numbers can rapidly build when they are suddenly presented with abundant food and breeding habitat such as provided by the many acres of dead and stressed trees within the Moose Fire area. Once the adult beetles emerge from the fire stressed trees, they will search for the next nearest source of food. They are capable of flying about five miles in search of habitat, thus posing a very real threat to mature, larger diameter spruce and Douglas-fir trees outside the fire area.

Fire killed trees in the Moose Fire area have already started falling and will continue to come down over the next 15-20 years. This will result in extremely heavy fuel loads adjacent to private property and the administrative sites. If a fire does occur in these areas, the fuel accumulations, fuel continuity and profile would make the fire difficult to contain and control. A large high intensity fire would likely again threaten or burn private property, administrative sites and valuable forest resources.

Fire-killed trees also do not typically maintain their merchantability as wood products for more than 1 to 3 years, depending on their species and size. Sapwood staining, checking, woodborer damage, and decay will deleteriously affect volume after that time. Smaller diameter trees typically will not be merchantable within a year while larger diameter trees can retain their merchantability longer but will lose their value as wood products as time goes on. Removing an appropriate amount of fire-affected trees while considering ecological needs, before they lose their timber value and starting the reforestation process helps facilitate meeting desired conditions within the Moose Fire Project area.

The proposed action includes the following resource management activities: salvage trees that were burned on approximately 4300 to 5300 acres; use a combination of pheromone baiting, trap trees, and funnel trees to help address existing and future spruce bark beetle and Douglas-fir bark beetle concerns; and the reduce fuels in urban/interface and administrative site areas. Approximately 1000 acres are proposed for salvage in inventoried roadless lands. Planting conifer seedlings and making sure that best management practices would be maintained on roads used for the salvage would also be included in this project. Additionally, road access would be changed in two grizzly bear subunits to meet the Flathead Forest Plan's Amendment 19 ten-year goals and objectives, relative to

grizzly bear security. Approximately 22 miles of open yearlong/seasonally open road would be restricted yearlong within the Werner Creek and Lower Big Creek grizzly bear subunits. Also, approximately 57 miles of road would be decommissioned in both grizzly bear subunits.

The purpose and need for the actions are to: decrease potential mortality cause by bark beetles to remaining live Douglas-fir and spruce trees within and outside the Moose fire are; recover merchantable wood fiber affected by the Moose Fire in timely manner to support local communities and contribute to the long-term yield of forest products; and to reduce future fire risk and hazard by reducing future fuel accumulations caused by the Moose Fire adjacent to private property or administrative sites.

This EIS will tier to the Flathead National Forest Land and Resource Management Plan and EIS of January 1986, and its subsequent amendments, which provide overall guidance for land management activities on the Flatheads National Forest.

Preliminary issues and concerns include effects of treatments on inventoried roadless lands, effects of treatments on riparian areas, effects of treatments on recreational motorized access, and effects of treatments on threatened/endangered species such as bull trout and grizzly bears.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Responsible Official is the Forest Supervisor of the Flathead National Forest, 1935 3rd Avenue East, Kalispell, Montana 59901. The Forest Supervisor will make a decision regarding this proposal considering the comments and response, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies. The decision and rationale for the decision will be documented in a Record of Decision. That decision will be subject to appeal under applicable Forest Service regulations.

Dated: January 4, 2002.

Cathy Barbouletos,

Forest Supervisor—Flathead National Forest.

[FR Doc. 02–612 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Notice of Availability of Observer Coverage Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Observer Coverage Plan for the Pacific Coast Groundfish Fishery.

SUMMARY: NMFS announces availability of the Observer Coverage Plan for the Pacific Coast Groundfish Fishery pursuant to Amendment 13 (bycatch provisions) to the Pacific Coast Groundfish Fishery Management Plan (FMP).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and e-mail: *yvonne.dereynier@noaa.gov, becky.renko@noaa.gov*. Copies of the Observer Coverage Plan may also be obtained from these contacts.

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the Federal Register: *http://www.access.gpo.gov/su-docs/aces/aces140.html.* The Observer Coverage Plan is accessible at *http://www.nwfsc.noaa.gov/fram/Observer* .

SUPPLEMENTARY INFORMATION: NMFS approved Amendment 13 to the Pacific Coast Groundfish FMP on December 21, 2000. Amendment 13 implements the bycatch requirements of the Sustainable Fisheries Act Amendments of 1996. Among other things, Amendment 13 authorizes an at-sea observer program in fulfillment of the requirement that a standardized reporting methodology for bycatch be established. Federal funding was obtained, and the observer program was initiated in August 2001.

Amendment 13 states that details of how observer coverage will be distributed across the West Coast groundfish fleet will be described in an observer coverage plan and that NMFS will publish an announcement of the authorization of the observer program and description of the observer coverage plan in the **Federal Register**. To comply with this requirement, the Northwest Fisheries Science Center developed an initial Observer Coverage Plan (Sampling Plan and Logistics for the West Coast Groundfish Observer Program (WCGOP), Fall 2001), which may be obtained from the individuals listed under **FOR FURTHER INFORMATION CONTACT** section. The plan outlines the initial goals and methodology of the WCGOP, and describes the initial observer deployments. The program is expected to evolve as it progresses, and new information becomes available.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 7, 2002.

Jon Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–647 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request under the United States-Caribbean Basin Trade Partnership Act (CBTPA).

January 7, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a determination that certain shirting fabrics, for use in blouses, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On January 4, 2002 the Chairman of CITA received a petition from School Apparel, Inc. alleging that certain shirting fabrics, classified in subheadings 5210.21 and 5210.31 of the Harmonized Tariff Schedule of the United States (HTSUS), used in the production of women's and girls' blouses, cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that blouses of such fabrics be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether such shirting fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by January 25, 2002 to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Contact: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also authorizes quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures in the **Federal Register** that it will follow in considering requests. (66 FR 13502).

On January 4, 2002 the Chairman of CITA received a petition from School Apparel, Inc., alleging that certain shirting fabrics, specifically fabrics of subheadings 5210.21 and 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for women's and girls' blouses that are both cut and sewn in one or more CBTPA beneficiary countries from such fabrics.

CITA is soliciting public comments regarding this request, particularly with respect to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabrics for purposes of the intended use. Comments must be received no later than January 25, 2002. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that these shirting fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabrics stating that it produces the fabrics that are the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–691 Filed 1–8–02; 11:06 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request under the United States-Caribbean Basin Trade Partnership Act (CBTPA)

January 7, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a request for a determination that yarns of combed cashmere, cashmere blends and camel hair cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On January 4, 2002 the Chairman of CITA received a petition from Warren Corporation, alleging that yarn of combed cashmere, cashmere blends, and camel hair, classified in subheading 5108.20.60 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. Warren Corporation requests that apparel articles of U.S. formed fabric of such yarn be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether yarn of combed cashmere, cashmere blends, or camel hair can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by January 25, 2002 to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, United States Department of Commerce, 14th

and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Contact: Martin J. Walsh, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also authorizes quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures in the **Federal Register** that it will follow in considering requests. (66 FR 13502).

On January 4, 2002 the Chairman of CITA received a petition from Warren Corporation, alleging that yarn of combed cashmere, cashmere blends, and camel hair, classified in HTSUS subheading 5108.20.60 cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from U.S. formed fabric of such yarn.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the yarn for purposes of the intended use. Comments must be received no later than January 25, 2002. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that yarn of combed cashmere, cashmere blends or camel hair can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–692 Filed 1–8–02; 11:06 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Request of the Chicago Board of Trade (CBOT) for Product Approval of CBOT X-Fund Futures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of terms and conditions of commodity futures contract.

SUMMARY: The Chicago Board of Trade (CBOT or Exchange) has requested that the Commission approve a new product, CBOT X-fund futures, pursuant to the provisions of section 5c(c)(2)(A) of the Commodity Exchange Act as amended. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by the Commission Regulation 140.96, has determined that public comment on the propose product is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before January 25, 2002.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov.* Reference should be made to the CBOT X-Fund futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Richard Shilts of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: *Manalysis@cftc.gov*

SUPPLEMENTARY INFORMATION: Copies of the terms and condition of the X-Fund futures contract, as well as additional information about the contract, are available on the CBOT Web site at: *http://www.CBOT.com/cbot/www/cont_modular/1,2291,14+56+13,00.html.*

Other materials submitted by the CBOT in support of the request for product approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (2000)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBOT should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 3, 2002.

Richard A. Shilts,

Acting Director.

[FR Doc. 02–590 Filed 1–9–02; 8:45 am]

BILLING CODE 8351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: the Defense Science Board (DSB) Task Force on Chemical Warfare Defense will meet in closed session on January 23, 2002, at SAIC, Inc., 4001 N. Fairfax Drive, Arlington, VA. The Task Force will assess the possibility of controlling the risk and consequences of a chemical warfare (CW) attack to acceptable national security levels within the next five years.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will assess current national security and military objectives with respect to CW attacks; CW threats that significantly challenge these objectives today and in the future; the basis elements (R&D, materiel, acquisition, personnel, training, leadership) required to control risk and consequences to acceptable levels, including counter-proliferation; intelligence, warning, disruption; tactical detection and protection (active and passive); consequence management; attribution and deterrence; and policy. The Task Force will also assess the testing and evaluation necessary to demonstrate and maintain the required capability and any significant impediments to accomplishing this goal.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: January 4, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–613 Filed 1–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

President's Commission Excellence in Special Education

AGENCY: President's Commission on Excellence in Special Education, Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice provides the location of the first meeting of the President's Commission on Excellence in Special Education (Commission). This is a subsequent notice about the Commission meeting first published on December 19, 2001, in the **Federal Register**, Vol. 66, No. 244 on page 65473. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act in order to notify the public of their opportunity to attend. Members of the general public may observe and listen to Commission proceedings via live feed television at the Hotel Washington. The Commission will not receive comments from the general public at this meeting, but any member of the public is permitted to file a written statement with the Commission. Subsequent Commission meetings and hearings will be posted on the Commission's Web site.

DATES AND TIMES: Tuesday, January 15, 2002, from 7:30 a.m.–5 p.m. Please note this is a revised time.

ADDRESSES: The Commission meeting will be held in Washington, DC, at the Hotel Washington located at 515 15th Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: C. Todd Jones, Executive Director, at 202–208–1312 (telephone) or Troy R. Justesen, Deputy Executive Director, at 202–219–0704 (telephone), (202) 208–1953 (fax), *troy.justesen@ed.gov* (E-mail) or via the Commission's Web site address at: *http://www.ed.gov/inits/commissionsboards/whspecialeducation/sitemap.html*

SUPPLEMENTARY INFORMATION: The Commission was established under Executive Order 13227 (October 2, 2001) to collect information and study issues Related to Federal, State, and local special education programs with the goal of recommending policies for improving the educational performance of students with disabilities. In furtherance of its duties, the Commission shall invite experts and members of the public to provide information and guidance. The Commission shall prepare and submit a report to the President outlining its findings and recommendations.

At the January meeting, the Commission will discuss current and future activities. Specifically, the Commission will focus on planning future Commission meetings and hearings to be held in locations across the nation.

Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative formats) should notify Troy R. Justesen, at (202) 219–0704, by no later than January 8, 2002. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site will be accessible to individuals with mobility impairments, including those who use wheelchairs.

Records of all Commission proceedings are available for public inspection at the President's Commission on Excellence in Special Education, 80 F Street, N.W., Suite 408; Washington, DC 20208 from 9 a.m. to 5 p.m. (EST).

Dated: January 4, 2002.

C. Todd Jones,

Executive Director & Delegated Functions of Assistant Secretary for Office for Civil Rights.

[FR Doc. 02–594 Filed 1–9–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–259–000]

ANR Pipeline Co.; Notice Shortening Comment Period

January 3, 2002.

On December 26, 2001, ANR Pipeline Company (ANR) filed an Offer of Settlement (Settlement) in the above-docketed proceeding. ANR's Settlement also included a request for a shortened comment period. The Settlement transmittal states that the request for a shortened comment period is supported by the only active participants to this proceeding.

Upon consideration, notice is hereby given that the time for filing initial comments on ANR's Settlement is hereby shortened to and including January 8, 2002. Reply comments shall be filed on or before January 15, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–572 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–10–000]

Enogex, Inc.; Notice of Petition for Rate Approval

January 4, 2002.

Take notice that on December 18, 2001, Enogex Inc. (Enogex) filed a petition for approval for a rate for interruptible Section 311 transportation service on expanded facilities, the Enogex System, the result of the merger of Enogex, Inc. and Transok, LLC, scheduled for January 1, 2002. The rate will become effective January 1, 2002. Enogex proposes a rate of $0.70 per MMBtu for interruptible service on the Enogex System, as well as a combined fuel tracker rate of 1.51% plus actual fuel for use of low pressure compression and dehydration facilities.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before the comment date. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: January 11, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–574 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–61–000, *et al.*]

Bayswater Peaking Facility, LLC, *et al.*; Electric Rate and Corporate Regulation Filings

January 4, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Bayswater Peaking Facility, LLC

[Docket No. EG02–61–000]

On December 28, 2001 Bayswater Peaking Facility, LLC (the Applicant), with its principal offices at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Federal Energy Regulatory Commission (Commission) an application for a determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The Applicant states that it is a Delaware corporation and is the owner and operator of a nominal 46 megawatt natural gas-fired simple cycle peak electric generating facility (''Facility'') to be located in Far Rockaway, Queens County, New York. The Facility will sell energy, capacity, and ancillary services into the wholesale generation market.

Comment Date: January 25, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. MAIN Wind I, LLC

[Docket No. EG02–62–000]

Take notice that on January 2, 2002, MAIN Wind I, LLC, 650 NE Holladay, Suite 700, Portland, Oregon 97232, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The applicant is a limited liability company organized under the laws of the State of Oregon and a wholly owned subsidiary of PacifiCorp Power Marketing, Inc., an Oregon corporation (PPM). PPM is a wholly owned subsidiary of PacifiCorp Holdings, Inc., a Delaware corporation with general offices in Portland, Oregon (PHI). PHI is a wholly owned subsidiary of NA General Partnership, a Nevada general partnership (NAGP). NAGP's two partners are Scottish Power NA 1 Limited and Scottish Power NA 2 Limited. Scottish Power NA 1 Limited and Scottish Power NA 2 Limited are private limited companies incorporated in Scotland and are wholly owned subsidiaries of ScottishPower plc, a public limited corporation organized under the laws of Scotland.

The applicant will be engaged directly and exclusively in the business of owning and/or operating one or more eligible facilities (the Facilities) and selling at wholesale at market-based rates electric energy from the Facilities. Once constructed, the Facilities will consist of an approximately 50 MW wind-powered electric generation facility located near Mendota, Illinois, and may also include an additional approximately 50 MW wind-powered generation facility located near Mendota, Illinois. Copies of the application have been served upon the Oregon Public Utility Commission and the Illinois Public Utility Commission, as ''affected state commissions'' under 18 CFR § 365.2(b)(3), and the Securities and Exchange Commission.

Comment Date: January 25, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. MAPP Wind I, LLC

[Docket No. EG02–63–000]

Take notice that on January 2, 2002, MAPP Wind I, LLC, 650 NE Holladay, Suite 700, Portland, Oregon 97232, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The applicant is a limited liability company organized under the laws of the State of Oregon and a wholly owned subsidiary of PacifiCorp Power Marketing, Inc., an Oregon corporation (PPM). PPM is a wholly owned subsidiary of PacifiCorp Holdings, Inc., a Delaware corporation with general offices in Portland, Oregon (PHI). PHI is a wholly owned subsidiary of NA General Partnership, a Nevada general partnership (NAGP). NAGP's two partners are Scottish Power NA 1 Limited and Scottish Power NA 2 Limited. Scottish Power NA 1 Limited and Scottish Power NA 2 Limited are private limited companies incorporated in Scotland and are wholly owned subsidiaries of ScottishPower plc, a public limited corporation organized under the laws of Scotland.

The applicant will be engaged directly and exclusively in the business of owning and/or operating one or more eligible facilities (Facilities) and selling

at wholesale at market-based rates electric energy from the Facilities. Once constructed, the Facilities will consist of an approximately 51 MW wind-powered electric generation facility located in southwestern Minnesota, and may also include an additional approximately 80 MW wind-powered generation facility located in southwestern Minnesota. Copies of the application have been served upon the Oregon Public Utility Commission and the Minnesota Public Utility Commission, as ''affected state commissions'' under 18 CFR § 365.2(b)(3), and the Securities and Exchange Commission.

Comment Date: January 25, 2002. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. West Georgia Generating Company, LLC

[Docket No. ER99–2186–001]

Take notice that on December 31, 2001, West Georgia Generating Company, LLC (West Georgia) tendered for filing with the Federal Energy Regulatory Commission (Commission) a change in upstream ownership of West Georgia that may be relevant to West Georgia's market-based rate authority. West Georgia submits that this change does not affect West Georgia's market-based authority.

Comment Date: January 22, 2002.

5. Geysers Power Company, LLC

[Docket No. ER02–236–001]

Take notice that on December 31, 2001, Geysers Power Company, LLC (Geysers Power), tendered for filing with the Federal Energy Regulatory Commission (Commission) substitute rate sheets which replace certain of the rate sheets submitted by Geysers Power in the above-referenced docket on October 31, 2001, conditionally accepted and suspended by the Commission on December 19, 2001. Geysers Power, LLC, 97 FERC 61,295 (2001). Geysers Power requests waiver for Commission regulations to permit it to establish an effective date of January 1, 2002, for these substitute rate sheets, subject to the terms of the December 19, 2001 Order.

Comment Date: January 22, 2002.

6. PacifiCorp

[Docket No. ER02–653–000]

Take notice that PacifiCorp on December 31, 2001, tendered for filing in accordance with 18 CFR 35 of the Commission's rules and regulations, Fourth Revised Volume No. 11 (Tariff) incorporating proposed changes to its Open Access Transmission Tariff due to retail direct access in the state of Oregon and generation interconnection requirements. Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

PacifiCorp has requested an effective date of March 1, 2002.

Comment Date: January 22, 2002.

7. PacifiCorp

[Docket No. ER02–654–000]

Take notice that PacifiCorp on December 31, 2001, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Network Integration Transmission Service Agreement with Basin Electric Power Cooperative (Basin) under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: January 22, 2002.

8. New England Power Pool

[Docket No. ER02–655–000]

Take notice that on December 31, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include J. Aron & Company (J. Aron), the Connecticut Office of Consumer Counsel (CT OCC), and Entergy Nuclear Vermont Yankee, LLC (ENVY). The Participants Committee requests effective dates of January 1, 2002, February 1, 2002, and March 1, 2002 for commencement of participation in NEPOOL by J. Aron, CT OCC, and ENVY, respectively.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: January 22, 2002.

9. New England Power Pool

[Docket No. ER02–656–000]

Take notice that on December 31, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted a filing requesting the approval of proposed changes to NEPOOL Market Rules & Procedures 5, 9, Appendix 11-D and 20, to modify NEPOOL's Load Response Program. The proposed modifications were developed to increase participation in the Program.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment Date: January 22, 2002.

10. PJM Interconnection, L.L.C.

[Docket No. ER02–657–000]

Take notice that on December 31, 2001, PJM Interconnection, L.L.C. (PJM), submitted for filing revisions to the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area (RAA). PJM states that the proposed changes will expand membership in the RAA's Reliability Committee to include more market participants, as desired by the Commission. Copies of this filing were served upon all PJM members and the state electric utility regulatory commissions in PJM.

PJM proposes January 1, 2002 as the effective date for these changes and, to that end, requests waiver of the Commission's 60-day notice requirement.

Comment Date: January 22, 2002.

11. PJM Interconnection, L.L.C.

[Docket No. ER02–658–000]

Take notice that on December 31, 2001, PJM Interconnection, L.L.C. (PJM), submitted for filing with the Federal Energy Regulatory Commission (Commission) revisions to the PJM West Reliability Assurance Agreement Among Load Serving Entities in the PJM West Region (West RAA). PJM states that the proposed revisions will better coordinate the capacity procedures and markets under the West RAA with those in effect for PJM's existing control area under the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area and also place a ceiling on the exposure of load-serving entities to capacity deficiency charges under the West RAA. PJM states that these changes also expand membership in the West RAA's Reliability Committee to include more market participants, as desired by the Commission.

PJM states that it has designated January 1, 2002 as the effective date for these changes, to be consistent with the effective date previously requested for the West RAA and other PJM West documents in Docket No. RT01–98–000. PJM requests, however, that the Commission, through suspension or otherwise, assign to the West RAA amendments in this docket the same effective date as is established for the West RAA in Docket No. RT01–98–000 and, to the extent necessary, grant waiver of the Commission's 60-day notice requirement.

Copies of this filing were served upon all PJM members, the state electric utility regulatory commissions in PJM,

and all parties listed on the official service list in Docket No. RT01–98–000.

Comment Date: January 22, 2002.

12. Xcel Energy Services Inc.

[Docket No. ER02–659–000]

Take notice that on December 31, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service Company (Southwestern), submitted for filing a Transaction Agreement between Southwestern and El Paso Electric Company. XES requests that this agreement become effective on January 1, 2002.

Comment Date: January 22, 2002.

13. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–660–000]

Take notice that on December 31, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) submitted for filing amended and executed long-term firm point-to-point transmission service agreement with IDACORP Energy L.P. (IDACORP). A copy of this filing was served on IDACORP.

Deseret requests an effective date of January 1, 2002.

Comment Date: January 22, 2002.

14. Connexus Energy

[Docket No. ER02–661–000]

Take notice that on December 31, 2001, Connexus Energy submitted for filing with the Federal Energy Regulatory Commission (Commission) revised sheets to Connexus Energy's Electric Rate Schedule FERC No. 1. Connexus Energy states that the revised sheets effect minor rate changes under Connexus Energy's contract with Elk River Municipal Utilities. Connexus Energy requests waiver of the Commission's notice requirement to allow a January 1, 2002 effective date.

Comment Date: January 22, 2002.

15. Boston Edison Company

[Docket No. ER02–662–000]

Take notice that on December 31, 2001, Boston Edison Company (Boston Edison) tendered for filing an unexecuted interconnection Agreement between Boston Edison and IDC Bellingham, LLC (IDC Bellingham). Boston Edison requests an effective date of March 1, 2002.

Boston Edison states that it has served a copy of the filing on IDC Bellingham and the Massachusetts Department of Telecommunications and Energy.

Comment Date: January 22, 2002.

16. Public Service Company of New Hampshire

[Docket No. ER02–663–000]

Take notice that on December 31, 2001, Public Service Company of New Hampshire (PSNH) submitted for filing with the Federal Energy Regulatory Commission (Commission) an informational statement concerning PSNH's fuel and purchased power adjustment clause charges and credits for the periods of July 1, 2000 to March 31, 2001.

This informational statement is submitted pursuant to a settlement agreement approved by the Commission in Publ. Serv. Co of New Hampshire, 57 FERC ¶ 61,068 (1991), and a settlement stipulation approved by the Commission by Letter Order in Docket Nos. ER91–143–000, ER91–235–000 and EL91–15–000, dated July 22, 1992.

Copies of this filing were served upon the Town of Ashland Electric Company and the New Hampton Village Precinct.

Comment Date: January 22, 2002.

17. American Transmission Company LLC

[Docket No. ER02–664–000]

Take notice that on December 31, 2001, American Transmission Company LLC (ATCLLC) tendered for filing Firm and Non-Firm Point-to-Point Service Agreements for Maclaren Energy Inc.

ATCLLC requests an effective date of January 1, 2002.

Comment Date: January 22, 2002.

18. Puget Sound Energy, Inc.

[Docket No. ER02–665–000]

Take notice that on December 31, 2001, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Short-Term Firm Point-To-Point Transmission Service with the United States of America Department of Energy acting by and through the Bonneville Power Administration (Bonneville), as Transmission Customer. A copy of the filing was served upon Bonneville.

Comment Date: January 22, 2002.

19. Cinergy Services, Inc.

[Docket No. ER02–666–000]

Take notice that on December 31, 2001, Cinergy Services, Inc., (Provider), tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed renewal of Cinergy Rate Schedule No. 292, by and between Provider and NewEnergy, Inc. (Customer). The successive annual term is in accordance with Cinergy Rate Schedule No. 292, which has been previously accepted by the Commission under FERC Docket No. ER01–882.

Provider and Customer are requesting an effective date of January 1, 2002.

Comment Date: January 22, 2002.

20. Cinergy Services, Inc.

[Docket No. ER02–667–000]

Take notice that on December 31, 2001, Cinergy Services, Inc., (Provider), tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed renewal of Cinergy Rate Schedule No. 288, by and between Provider and FirstEnergy Services Corp. (Customer). The successive annual term is in accordance with Cinergy Rate Schedule No. 288, which has been previously accepted by the Commission under FERC Docket No. ER01–881.

Provider and Customer are requesting an effective date of January 1, 2002.

Comment Date: January 22, 2002.

21. Cinergy Services, Inc.

[Docket No. ER02–668–000]

Take notice that on December 31, 2001, Cinergy Services, Inc. (Provider) tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed renewal of Cinergy Rate Schedule No. 286, by and between Provider and Strategic Energy, LLC (Customer). The successive annual term is in accordance with Cinergy Rate Schedule No. 286, which has been previously accepted by the Commission under FERC Docket No. ER01–880.

Provider and Customer are requesting an effective date of January 1, 2002.

Comment Date: January 22, 2002.

22. Bayswater Peaking Facility, LLC

[Docket No. ER02–669–000]

Take notice that on December 28, 2001, Bayswater Peaking Facility, LLC (Bayswater) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for authorization to sell wholesale power at market-based rates, and certain ancillary services at market-based rates into the New York market. Bayswater also requested that the Commission accept for filing a long-term Power Purchase Agreement for the sale of the power from Bayswater to the Long Island Power Authority as a stand-alone rate schedule under its proposed market rate tariff. Bayswater has requested that this Market Rate Tariff become effective upon commencement of service.

Copies of this filing have been served on the New York State Public Service Commission and the Long Island Power Authority.

Comment Date: January 22, 2002.

23. Delmarva Power & Light Company

[Docket No. ER02–670–000]

Take notice that on December 31, 2001, Delmarva Power & Light Company (Delmarva), tendered for filing revised rate schedule sheets between Delmarva and each of the Delaware Cities of Milford, Newark, and New Castle and the Delaware Towns of Middletown, Clayton, and Smryna (collectively, the Municipalities). Delmarva also tendered for filing a revised rate schedule between Delmarva and the Delaware Municipal Electric Corporation (DEMEC). Delmarva requests that the Commission waive its notice of filing requirements to allow all of the revised rate schedule sheets to become effective as of January 1, 2002.

Copies of the filing were served upon the Delmarva's jurisdictional customers and the Delaware Public Service Commission.

Comment Date: January 22, 2002.

24. ConAgra Trade Group, Inc.

[Docket No. ER02–672–000]

Take notice that on December 28, 2001, ConAgra Energy Services, Inc. changed its name to ConAgra Trade Group, Inc. All contractual agreements with ConAgra Energy Services, Inc. remain unaffected and will be performed by ConAgra Trade Group, Inc.

Comment Date: January 22, 2002.

25. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–673–000]

Take notice that on December 31, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed proposed amendments to its Open Access Transmission Tariff (OATT) and Agreement of Transmission Facilities Owners to Organize the Midwest ISO (Midwest ISO Agreement) in compliance with the Commission's Order in Docket No. ER98–1438–000, et al., Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,033 (2001), which required the Midwest ISO to place and provide all load under the Midwest ISO OATT.

The Midwest ISO requests that its amendments become effective on the later of February 1, 2002 or the date the Midwest ISO begins providing service under its OATT.

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: January 22, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

C. B. Spencer,

Acting Secretary.

[FR Doc. 02–620 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3668–003, et al.]

Commonwealth Edison Company, et al.; Electric Rate and Corporate Regulation Filings

January 3, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Commonwealth Edison Company

[Docket No. ER00–3668–003]

Take notice that on December 10, 2001, Commonwealth Edison Company (ComEd), in compliance with the Commission's November 9, 2001 ''Order Conditionally Accepting Compliance Filing,'' 97 FERC ¶ 61,171 (2001), submitted for filing with the Federal Energy Regulatory Commission (Commission) in the above-referenced proceeding a revised compliance filing. As required by the Commission, ComEd deleted modifications of the unexecuted Interconnection Agreement related to the additions to Section 7.1 and the modification to Appendix C of the Interconnection Agreement. Copies of this filing were served on University Park, on the Illinois Commerce Commission and on the parties designated on the official service list compiled by the Secretary.

Comment Date: January 14, 2002.

2. Duke Energy Corporation

[Docket No. ER01–1616–006]

Take notice that on December 28, 2001, Duke Energy Corporation filed a refund report in the above-captioned proceeding.

Comment Date: January 18, 2002.

3. PJM Interconnection, L.L.C.

[Docket No. ER02–563–000]

Take notice that on December 28, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing a notice of withdrawal of its proposed amendments to section 8.6 of the Appendix to Attachment K of PJM's Open Access Transmission Tariff and to Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. filed in this docket. PJM proposed the amendments to conform the provisions of PJM's interregional congestion pilot program between PJM and the New York Independent System Operator, Inc. (NYISO) to the provisions filed by NYISO in Docket No. ER02–194–000. PJM seeks to withdraw the proposed conforming amendments because the Federal Energy Regulatory Commission rejected the corresponding NYISO provisions.

Copies of this filing have been served on all PJM Members, the NYISO, the state electric utility regulatory commissions in the PJM and NYISO control areas, and the parties on the official service lists in Docket Numbers ER01–2528, ER02–194–000, and ER02–563–000.

Comment Date: January 18, 2002.

4. Exelon Generation Company, LLC

[Docket No. ER02–615–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and American Electric Power Services Corporation as agent for the AEP Companies under Exelon Generation's wholesale power sales, tariff, FERC Electric Tariff Original Volume No. 2

Comment Date: January 17, 2002.

5. San Diego Gas & Electric Company

[Docket No. ER02–635–000]

Take notice that on December 28, 2001, San Diego Gas & Electric (SDG&E) tendered for filing a change in rates for the Transmission Revenue Balancing Account Adjustment and the Transmission Access Charge Balancing Account Adjustment set forth in its Transmission Owner Tariff (TO Tariff). The effect of this rate change is to increase rates for jurisdictional transmission service utilizing that portion of the California Independent System Operator-Controlled Grid owned by SDG&E. SDG&E requests that this rate change be made effective January 1, 2002.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator and other interested parties.

Comment Date: January 18, 2002.

6. Southern California Edison Company

[Docket No. ER02–636–000]

Take notice that on December 28, 2001, Southern California Edison Company (SCE) tendered for filing a revision to its Transmission Owner Tariff, FERC Electric Tariff, Substitute First Revised Original Volume No. 6, to reflect the annual update of the Transmission Revenue Balancing Account Adjustment and the Transmission Access Charge Balancing Account Adjustment to become effective January 1, 2002.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator, and all interested parties.

Comment Date: January 18, 2002.

7. Pacific Gas and Electric Company

[Docket No. ER02–637–000]

Take notice that on December 28, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing changes in rates for the Transmission Revenue Balancing Account Adjustment (TRBAA) rate set forth in its Transmission Owner Tariff (TO Tariff), the Reliability Services (RS) rates set forth in both its TO Tariff and its Reliability Services Tariff (RS Tariff) (certain customers' RS rates are in the TO Tariff while other customers' RS rates are in the separate RS Tariff) and the Transmission Access Charge Balancing Account Adjustment (TACBAA) also set forth in its TO Tariff. With the exception of the TACBAA rate, these changes in rates are proposed to become effective January 1, 2002.

Copies of this filing have been served upon the California Independent System Operator (ISO), Scheduling Coordinators registered with the ISO, Southern California Edison Company, San Diego Gas &Electric Company, the California Public Utilities Commission and other parties to the official service lists in recent TO Tariff rate cases, FERC Docket Nos. ER00–2360–000 and ER01–66–000.

Comment Date: January 18, 2002.

8. New York Independent System Operator, Inc.

[Docket No. ER02–638–000]

Take notice that on December 28, 2001, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff and Open Access Transmission Tariff in order to implement a new program that will allow market participants to ''pre-schedule'' external transactions and wheels-through. The NYISO has requested an effective date of February 28, 2002.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned docket.

Comment Date: January 18, 2002.

9. New York Independent System Operator, Inc.

[Docket No. ER02–639–000]

Take notice that on December 28, 2001, the New York Independent System Operator, Inc. (NYISO) filed a revision to Schedule 1, Section 3A of its Open Access Transmission Tariff (OATT), to specifically enumerate ''Regulatory fees'' as a recoverable NYISO cost. The NYISO has requested a waiver of notice requirements and has proposed an effective date of January 1, 2002 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's OATT and Services Tariff.

Comment Date: January 18, 2002.

10. Western Resources, Inc.

[Docket No. ER02–640–000]

Take notice that on December 28, 2001, Western Resources, Inc. (WR) tendered for filing a Service Agreement between WR and Mississippi Delta Energy Agency (MDEA). WR states that the purpose of this agreement is to permit MDEA to take service under WR's Market Based Power Sales Tariff on file with the Commission. This agreement is proposed to be effective November 28, 2001.

Copies of the filing were served upon MDEA and the Kansas Corporation Commission.

Comment Date: January 18, 2002.

11. Ameren Services Company

[Docket No. ER02–641–000]

Take notice that on December 28, 2001, Ameren Services Company (ASC) tendered for filing a Service Agreement for Long Term Firm Point-to-Point Transmission Services between ASC and Ameren Energy, Inc. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Ameren Energy, Inc. pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: January 18, 2002.

12. Exelon Generation Company, LLC

[Docket No. ER02–642–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a notice of cancellation of its service agreement for the purchase and sale of power and energy with Sempra Energy Trading Corp. f/k/a AIG Trading Corporation. Copies of the filing have been served on the parties to the affected service agreements.

Exelon Generation proposes that the cancellations be made effective on December 26, 2001, and therefore requests waiver of the Commission's notice requirement.

Comment Date: January 18, 2002.

13. Southern California Edison Company

[Docket No. ER02–643–000]

Take notice, that on December 28, 2001, Southern California Edison Company (SCE) tendered for filing the Amended and Restated District-Edison 1987 Service and Interchange Agreement (Agreement) between SCE and The Metropolitan Water District of Southern California (District), which provides the terms to redefine the methodology for valuing the return of exchange energy delivered by District to SCE after January 17, 2001, for the contract year beginning October 1, 2000.

Copies of this filing were served upon the Public Utilities Commission of the State of California and District.

SCE requests the Commission to assign an effective date January 17, 2001 to the Agreement.

Comment Date: January 18, 2002.

14. Northeast Utilities Service Company, Holyoke Water Power Company, Holyoke Power and Electric Company

[Docket No. ER02–644–000]

Take notice that on December 28, 2001, Northeast Utilities Service Company (NUSCO), on behalf of Holyoke Water Power Company (HWP) and Holyoke Power and Electric Company (HP&E), tendered for filing (1) an amendment extending through December 31, 2002 the term of an agreement for the sale of 100 percent of the net output of the Mt. Tom Power Plant (Mt. Tom) from HWP to HP&E and (2) an amendment extending through December 31, 2002 the term of an agreement for the sale of 100 percent of HP&E's entitlement to Mt. Tom's net output from HP&E to Select Energy, Inc. NUSCO, HWP, and HP&E seek an effective date for the amendments of January 1, 2002.

Comment Date: January 18, 2002.

15. American Transmission Company LLC

[Docket No. ER02–645–000]

Take notice that on December 28, 2001, American Transmission Company LLC (ATCLLC) tendered for filing OATT revisions to accommodate retail access in Michigan. ATCLLC requests an effective date of January 1, 2002.

Comment Date: January 18, 2002.

16. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–646–000]

Take notice that on December 28, 2001, Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) executed Service Agreements with Dairyland Power Cooperative establishing Dairyland Power Cooperative as a Long-term Firm Point-to-Point Transmission Customer under the terms of the Alliant energy corporate Services, Inc. Open Access Transmission Tariff.

Alliant Energy Corporate Services, Inc. requests effective dates of May 1, 2001 for service agreement with OASIS request numbers 834751 and 834744; May 1, 2000 for service agreement with OASIS request numbers 584184 and 584180; May 1, 1999 for service agreement with OASIS request 407826 and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment Date: January 18, 2002.

17. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–647–000]

Take notice that on December 28, 2001, Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) executed Service Agreements with NRG Power Marketing Inc. establishing EnXco, Inc. as a Short-Term Firm and Non-Firm Point-to-Point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc. Open Access Transmission Tariff.

Alliant Energy corporate Services, Inc. requests an effective date of November 27, 2001, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment Date: January 18, 2002.

18. Sithe New Boston, LLC

[Docket No. ER02–648–000]

Take notice that on December 28, 2001 Sithe New Boston, LLC (Sithe New Boston) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Reliability Must Run Agreement with ISO New England Inc. Sithe New Boston requests an effective date of January 1, 2002. Sithe New Boston requests a waiver of all applicable Commission regulations to permit such effective date.

Sithe New Boston provided a copy of this filing to ISO–NE on the date of filing. Sithe New Boston also as a courtesy has mailed a copy of this filing to each affected state regulatory authority.

Comment Date: January 18, 2002.

19. New England Power Company

[Docket No. ER02–649–000]

Take notice that on December 28, 2001, New England Power Company (NEP) tendered for filing Original Service Agreement No. 17 for service under NEP's Wholesale Market Sales Tariff, FERC Electric Tariff, Original Volume No. 10 between NEP and Morgan Stanley Capital Group Inc.

Comment Date: January 18, 2002.

20. FirstEnergy Solutions Corp.

[Docket No. ER02–650–000]

Take notice that on December 28, 2001, FirstEnergy Solutions Corp. (FE Solutions) submitted for filing service agreements between FE Solutions and its affiliates, Metropolitan Edison Company and Pennsylvania Electric Company, under FE Solutions' market-based rate power sales tariff, FirstEnergy Solutions Corp., FERC Electric Tariff, Original Volume No.1.

Comment Date: January 18, 2002.

21. California Independent System Operator Corporation

[Docket No. ER02–651–000]

Take notice that on December 28, 2001, the California Independent System Operator Corporation (ISO) submitted for filing Amendment No. 41 to the ISO Tariff. Amendment No. 41 would modify the ISO Tariff and Protocols in four respects. First, the ISO proposes changes in the use of interest received by the ISO on payments in default to permit the use of such interest to pay unpaid creditors first and secondly to offset the Grid Management Charge. Second, the ISO proposes new provisions to create a ''safe harbor'' mechanism to permit the ISO to provide confidential information to governmental agencies that have established their own confidentiality provisions and procedures. Third, the ISO proposes changes to the definition of the Non-Emergency Clearing Price Limit to provide for a negative maximum. Fourth, the ISO proposes the correction of a typographical error in ISO Tariff Section 9.2.6. The ISO requests that the first proposal described above be made effective November 1, 2001, and that the other three proposals described above be made effective February 26, 2002.

The ISO has served copies of this filing upon the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and upon all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

Comment Date: January 18, 2002.

22. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–652–000]

Take notice that on December 28, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing revisions to its Open Access Transmission Tariff (OATT), FERC

Electric Tariff, Original Volume No. 1, which propose to provide the means for the Midwest ISO to bill Midwest ISO's Transmission Owners and International Transmission Company for Midwest ISO's monthly capital costs and the portion of its operating costs consistent with the services the Midwest ISO will be providing prior to the provision of Transmission Service under the Midwest ISO OATT.

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: January 18, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–569 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–27–000]

Florida Gas Transmission Co.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Phase VI Expansion and Request for Comments on Environmental Issues

January 4, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Phase VI Expansion involving construction and operation of facilities by Florida Gas Transmission Company (FGT) in the States of Alabama, Florida, Louisiana, and Mississippi.[1] These facilities would consist of about 33.3 miles of various diameter pipeline and 18,600 horsepower (hp) of compression. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice FGT provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

FGT proposes to construct approximately 33.3 miles of pipeline, consisting of approximately 25.4 miles of additional mainline and 7.9 miles of various diameter (6-inch to 36-inch-diameter) new lateral and lateral loops, as well as 18,600 horsepower of additional compression at 10 compressor stations. FGT proposes to expand the capacity of its facilities in Alabama, Florida, Louisiana, and Mississippi to transport an additional 121,100 million British thermal units per day of natural gas to four separate parties, Orlando Utilities Commission, Reliant Energy Services, Inc., South Florida Natural Gas, and the City of Leesburg, Florida. FGT's proposed facilities are summarized below.

Looping of Existing Mainline

1. Loop A—approximately 2.3 miles of 36-inch-diameter pipeline in Mobile County, Alabama;

2. Loop B—approximately 3.0 miles of 36-inch-diameter pipeline in Baldwin County, Alabama;

3. Loop C—approximately 3.1 miles of 30-inch-diameter pipeline in Washington County, Florida. Construction of Loop C for the entire 3.1 miles would coincide with the removal of 3.1 miles of FGT's 24-inch-diameter pipe previously abandoned in place;

4. Loop D—approximately 3.0 miles of 30-inch-diameter pipeline in Suwannee County, Florida, and

5. Loop E—approximately 14.0 miles of 30-inch-diameter pipeline in Washington County, Florida.

New Laterals and Lateral Loops

6. Leesburg Lateral Loop—approximately 1.3 miles of 6-inch-diameter pipeline in Lake County, Florida;

7. Cape Kennedy Lateral Loop Extension—approximately 1.4 miles of 16-inch-diameter pipeline in Brevard County, Florida, and

8. Stanton Lateral—approximately 5.2 miles of 16-inch-diameter pipeline in Orange County, Florida.

Compressor Station Additions

9. Station No. 9—Up-rate Unit #905 by 400 hp to 2,800 hp in Washington Parish, Louisiana;

10. Station No. 10—Up-rate Unit #1005 by 200 hp to 2,600 hp in Perry County, Mississippi;

11. Station No. 11—Up-rate Unit #1106 by 300 hp to 2,700 hp in Mobile County, Alabama;

[1] FGT's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

12. Station No. 12A—Add new 2,000 hp unit for a total of 15,000 hp in Santa Rosa County, Florida;

13. Station No. 13—Up-rate Unit #1306 by 300 hp to 2,700 hp in Washington County, Florida;

14. Station No. 14—Up-rate Unit #1406 by 300 hp to 2,700 hp in Gadsden County, Florida;

15. Station No. 15A—Add 2,000 hp by exchanging the 15,000 hp Unit #2401 at Station No. 24 with the 13,000 Hp Unit #1507 at Station No. 15A in Taylor County, Florida;

16. Station No. 18—Add a new reciprocating Unit #1806 of 7,200 hp and up-rate an Unit #1805 by 300 hp to 2,700 hp on the existing 24 and 30-inch-diameter mainlines in Orange County, Florida for a total increase of 7,500 hp;

17. Station No. 24—Add a single 7,200 hp Unit #2402 gas-driven centrifugal unit and exchange the 15,000 hp Unit #2401 at Station #24 for the 13,000 hp Unit #1507 at Station No.15A, resulting in an overall increase of 5,200 hp at Station No. 24 in Gilchrist County, Florida, and

18. Station No. 26—Up-rate Unit #2601 by 400 hp to 7,700 hp on the existing 30-inch West Leg in Citrus County, Florida.

The general location of the project facilities is shown in appendix 1.[2] *If you are interested in obtaining detailed maps of a specific portion of the project, send in your request using the form in appendix 3.*

Land Requirements for Construction

Construction of the proposed facilities would require about 399.3 acres of land. Following construction, about 190.9 acres would be maintained as new aboveground facility sites. The remaining 208.4 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

19. Geology and soils.

20. Land use

21. Water resources, fisheries, and wetlands.

22. Cultural resources.

23. Vegetation and wildlife.

24. Air quality and noise.

25. Endangered and threatened species.

26. Hazardous waste.

27. Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by FGT. This preliminary list of issues may be changed based on your comments and our analysis.

28. Eight residences are within 50 feet of the construction right-of-way.

29. 31 federally listed endangered or threatened species may occur in the proposed project area.

Also, we have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

30. Send an original and two copies of your letter to: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

31. Label one copy of the comments for the attention of Gas Branch 2.

32. Reference Docket No. CP02–27–000.

33. Mail your comments so that they will be received in Washington, DC on or before February 8, 2002.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–570 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RT02–2–000, RT01–2–000, RT01–98–000, RT01–95–000, and RT01–86–000]

Notice of State-Federal Northeast Regional Panel Discussion

January 3, 2002.

In the matter of: State-Federal Regional RTO Panels; PJM Interconnection, L.L.C., Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, UGI Utilities Inc.; PJM Interconnection, L.L.C. and Allegheny Power; New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas & Electric Corporation; Bangor Hydro-Electric Company, Central Maine Power Company, National Grid USA, Northeast Utilities Service Company, The United Illuminating Company, Vermont Electric Power Company, ISO New England Inc.; Notice of State-Federal Northeast Regional Panel Discussion

Take notice that on January 9, 2002, a State-Federal Northeast Regional Panel discussion will be held, pursuant to the Commission's order issued November 9, 2001, in Docket No. RT02–2–000, *et al.*[1] A transcript of the panel discussion will be placed in the above listed dockets.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–571 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

January 4, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Exempt

1. CP01–438–000, 12–28–01, David Swearington
2. Project No. 1927–028, 12–28–01, Ellen D. Smith
3. Project No. 1927–028, 12–28–01, Ellen D. Smith.
4. Project No. 2342–000, 12–28–01, Loree Randall

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–573 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2004 Resource Pool-Loveland Area Projects

AGENCY: Western Area Power Administration, DOE.

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

[1] Order Announcing the Establishment of State-Federal Regional Panels to Address RTO Issues, Modifying the Application of Rule 2201 in the Captioned Dockets, and Clarifying Order No. 607, 97 FERC ¶ 61,182 (2001).

ACTION: Notice of final power allocations.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), announces its Post-2004 Resource Pool Final Allocation of Power developed under the requirements of Subpart C—Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule. This notice also includes Western's responses to public comments on proposed allocations published May 11, 2001.

Final allocations are published to show Western's decisions prior to beginning the contractual phase of the process. Firm electric service contracts, negotiated between Western and allottees in this notice, will permit delivery of the allotted power from the October 2004 billing period, through the September 2024 billing period.

DATES: The Post-2004 Resource Pool Final Allocation of Power will become effective February 11, 2002 and will remain in effect until September 30, 2024.

ADDRESSES: All documents developed or retained by Western in developing the final allocations are available for inspection and copying at the Rocky Mountain Customer Service Region Office, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986.

SUPPLEMENTARY INFORMATION: Western published Final Post-2004 Resource Pool Allocation Procedures (Procedures) in the **Federal Register** (65 FR 52419, August 29, 2000) to implement Subpart C—Power Marketing Initiative of the Program's Final Rule (10 CFR part 905), published in the **Federal Register** (60 FR 54151, October 20, 1995). The Program, developed in part to implement section 114 of the Energy Policy Act of 1992, became effective November 20, 1995. The goal of the Program is to require planning and efficient electric energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments. One aspect of the Program is to establish project-specific power resource pools and allocate power from these pools to new preference customers.

Western published its proposed allocations and initiated a public comment period in the **Federal Register** (66 FR 24133, May 11, 2001). Public information forums on the proposed allocations were held August 2, 7, and 9, 2001. The public comment period was extended from September 10, 2001, to October 12, 2001, in the **Federal Register** (66 FR 47652, September 13, 2001).

The Procedures, in conjunction with the Post-1989 Marketing Plan (51 FR 4012, January 31, 1986), establish the framework for allocating power from the Loveland Area Projects (LAP) resource pool.

I. Comments and Responses

Comment: Mni Sose asks that Western re-examine its understanding of government-to-government communications.

Response: Western supports DOE's American Indian policy that stresses the need for a government-to-government, trust-based relationship. Western intends to continue its practice of consultation with tribal governments so that tribal rights and concerns are considered prior to any actions being taken that affect the tribes.

The Post-1989 Marketing Plan, Program, and Procedures form the framework for allocating LAP power. The allocation process was conducted in a consistent manner with all LAP applicants. Prior to publishing proposed allocations, Western, recognizing the unique status of Native American tribes, consulted with tribes before their Applicant Profile Data (APD) submittal and during Western's review of data submitted on their APDs.

Once proposed allocations were published, Western sought to follow the public process and only allow formal comments, written and oral, to be submitted as input to the final allocation decision. Western provided written responses to questions that were not answered in the public forums and extended the comment period in conjunction with those answers to provide additional time for tribes to submit written comments on the proposed allocations. Western will not engage in discussions about the allocations with any parties outside of the formal process until final allocations are published. This procedural rule is applied consistently to tribes as well as non-tribal entities. Western does not believe that this procedural rule affects tribal self-governance rights nor creates an impact upon trust resources.

Western believes that the tribes were consulted about the process and Western considered the information gained from those consultations along with oral and written comments received during the public comment period to make the final allocations.

Comment: Western should not consider the benefits to tribes of Federal power from current service providers when making allocations to the tribes. In the event of the formation of a tribal utility, that power would be inaccessible to the tribes.

Response: The intent of the Program is to provide the benefits of Federal hydropower directly to individual tribes. Allocations listed in this notice will be made directly to the tribes. Any indirect Western hydroelectric benefits recognized in the calculation method were used by Western to determine a fair share for tribes at the time of allocation with no intent to create any commitment to transfer those benefits to the tribes. Any indirect Western hydroelectric benefits received by the tribes are contractual commitments between Western and the existing customers.

Comment: Western should consider the Wind River Reservation's Marathon and CamWest loads for allocation purposes.

Response: Western agrees that oil and gas resources on the reservation are tribally owned. However, as stated in Western's response to comments in the publication of the Procedures, ''When submitting Native American load data as a non-utility, only load of tribal entities and their members will be considered for an allocation.'' Marathon and CamWest are neither tribal entities nor tribal members. Therefore, the loads submitted in the reservation's APD for these operations were not considered in determining allocations.

Comment: Total allocations to the Wind River Reservation from Salt Lake City Area Integrated Projects (SLCA/IP) and LAP fall short of the 65 percent allocation. LAP should make up any shortfall that occurs between the two projects. The reservation should receive no less of an allocation than if they were located solely within LAP.

Response: LAP took into consideration the amount of the proposed SLCA/IP allocation in determining the final LAP allocation. Western believes that the allocation ultimately provided to the reservation should be congruent with the allocations made to other tribes. Taking into account current serving utility benefit, proposed SLCA/IP allocation, and LAP allocation, Western made every effort possible to provide approximately 65 percent total benefit to the reservation.

Comment: The Kickapoo Tribe in Kansas is concerned about not having the future demand submitted in its APD considered in the allocation process. The tribe understood that proposed growth in the next 2 to 5 years would be considered in the process. The tribe would like Western to consider future growth in the allocation process.

Response: Western stated during the publication of the Procedures that limited projected load estimates would be considered. As Western moved through the process and received data, a determination of definable limitations had to be developed that would ensure fairness in the allocation process and make sure that the pool was used to promote widespread use of the resource among new preference entities. The results of the data evaluation led Western to decide that eligible future load submitted in the APD would be considered in the allocation process only if the load was for facilities that were completed, or substantially near completion, at the time of the APD due date.

Comment: Certain changes should be made to the General Power Contract Provisions that consider tribal sovereignty. Underlying reserve contracts should be offered to tribes to reserve the power allocation for each tribe and allow for changes to the method of implementation. Western's Integrated Resource Planning requirements should be useful but not burdensome to the tribes.

Response: Entering into contractual arrangements with the tribes is the next step in the resource pool allocation process. However, contractual arrangements will not begin until final allocations are completed. Contractual provisions will be consistent with Section IV of the Procedures.

Comment: Several comments were submitted concerning the source of LAP power for deliveries to allottees in Kansas. Additional comments expressed concern about delivery points, transmission access, transmission arrangements, and cost of delivery arrangements for the allottees in Kansas.

Response: Transmission issues will be appropriately addressed during the contractual phase of the LAP post-2004 resource pool process. Allottees are ultimately responsible for transmission and delivery arrangements, but Western will assist allottees to secure arrangements required to provide the benefits of LAP power to the allottees.

Comment: Kansas Electric Power Cooperative, Inc. (KEPCo) expressed concern about the financial impacts to KEPCo and its member cooperatives. Tribal allocations will reduce sales to KEPCo members. Additional concern was expressed that the lost sales to member cooperatives would make it more difficult to meet Rural Utilities Service commitments for loan repayment.

Response: Western will work with KEPCo, its member cooperatives, and tribes to minimize negative financial impacts of LAP allocations. Western will assist tribes to find the best method of receiving LAP allocations that will ensure equitable treatment for all affected parties. Western understands that the cooperation of KEPCo and its member cooperatives is essential to making allocations to tribes in northeastern Kansas a success. Western will work to satisfy the needs of the parties involved.

II. Amount of Pool Resources

Western will allocate up to 4 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2004, as firm power. Current hydrologic studies indicate that about 28 megawatts (MW) of capacity and 44 Gigawatthours (GWh) of energy will be available for the summer season. Approximately 24 MW of capacity and 35 GWh of energy will be available for the winter season. Firm power means firm capacity and associated energy allocated by Western and subject to the terms and conditions specified in Western's long-term firm power electric service contracts.

III. Final Power Allocation

The following final power allocations are made in accordance with the Procedures. All of the allocations are subject to the execution of a contract in accordance with the Procedures.

Final allocations for Native American allottees are shown in this table.

Native American allottees	Final post-2004 power allocation			
	Summer kilowatthours	Winter kilowatthours	Summer kilowatts	Winter kilowatts
Iowa Tribe of Kansas and Nebraska	1,986,640	1,722,043	1,232	1,180
Kickapoo Tribe in Kansas	2,760,701	2,323,337	1,713	1,592
Prairie Band Potawatomi Nation	5,536,170	4,458,846	3,435	3,056
Sac and Fox Nation of Missouri	2,690,754	2,289,904	1,669	1,570
Wind River Reservation (Eastern Shoshone and Northern Arapaho Tribes)	2,242,166	1,968,930	1,391	1,350

Native American allottees received LAP allocations, that when combined with existing and future Western hydropower benefits, total approximately 65 percent of their eligible load in both the summer and winter season based on the adjusted seasonal energy data submitted by each tribe. The allocation process considered the current Western hydroelectric benefits received through serving utilities and future Western hydroelectric benefits that will be received by serving utilities as a result of this allocation process.

Based on the applications submitted by the Northern Arapaho and the Eastern Shoshone tribes, Western could not differentiate between each tribe's load. The data from each tribe was used to arrive at a final allocation for the Wind River Reservation instead of each tribe. The final LAP allocation for the reservation considers, in addition to the hydroelectric benefit from Western through the reservation's serving utility, the proposed allocation from Western's SLCA/IP resource pool. The combination of all three factors, LAP, SLCA/IP proposed allocation, and current serving utility benefit, provides approximately a 65 percent benefit of Western hydroelectric power to the reservation. The reservation's LAP allocation was changed after considering the proposed SLCA/IP allocation published in the **Federal Register** (66 FR 31910, June 13, 2001). Because system plant factors are different for LAP and SLCA/IP, only SLCA/IP's proposed kilowatthours were used to determine the LAP allocation. The allocation change to the reservation had no effect on other tribal allocations.

Final allocations of power for non-Native American utility and nonutility allottees are listed here.

Non-Native American utility and nonutility allottees	Final Post-2004 power allocation			
	Summer kilowatthours	Winter kilowatthours	Summer kilowatts	Winter kilowatts
City of Chapman, KS	254,099	167,487	158	115
City of Elwood, KS	167,205	146,045	104	100
City of Eudora, KS	984,255	683,931	610	469
City of Fountain, CO	3,733,271	2,840,741	2,316	1,947
City of Garden City, KS	3,733,271	2,840,741	2,316	1,947
City of Goodland, KS	1,566,184	1,216,583	972	834
City of Horton, KS	434,979	313,926	270	215
City of Hugoton, KS	743,402	630,379	461	432
City of Johnson City, KS	440,463	336,772	273	231
City of Meade, KS	497,516	313,427	309	215
City of Minneapolis, KS	537,092	339,984	333	233
City of Troy, KS	192,401	150,826	119	103
Doniphan Electric Cooperative Association, Inc., KS	460,699	384,738	286	264
Fort Carson, CO	3,144,463	2,648,172	1,951	1,815
Kaw Valley Electric, KS	3,288,355	2,458,719	2,040	1,685
Midwest Energy, Inc., KS	3,733,271	2,840,741	2,316	1,947
Nemaha-Marshall Electric Cooperative Association, Inc., KS	1,129,867	973,099	701	667
Regional Transportation District, Denver, CO	327,209	287,994	203	198
Sunflower Electric Power Corporation, KS	3,733,271	2,840,741	2,316	1,947
Yellowstone National Park, WY	220,999	145,946	137	100

The allocation change to the Wind River Reservation caused a reduction in the total pool available to non-Native American utility and nonutility allottees. Therefore, the final allocation of power to non-Native American utility and nonutility allottees was changed accordingly.

The final allocations of power shown in the tables above are based on the LAP marketable resource available at this time. If the LAP marketable resource is reduced in the future, all allocations will be adjusted accordingly. Long-term firm energy with associated capacity made available for marketing because an allocation(s) has been reduced or withdrawn may be administratively reallocated by Western's Administrator without further public process.

IV. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

V. Review Under the National Environmental Policy Act

Western has completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995). Western's NEPA review assured all environmental effects related to this process have been analyzed.

VI. Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866 (58 FR 51735). Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget (OMB) is required.

VII. Determination Under the Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: December 18, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 02–618 Filed 1–9–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7127–5]

FY2002–2003 Great Lakes National Program Office Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: EPA's Great Lakes National Program Office (GLNPO) is now requesting the submission of Proposals for GLNPO funding through the *''FY2002–2003 Great Lakes National Program Office Request for Proposals''* (RFP). The RFP solicits Proposals for assistance projects in the areas of Contaminated Sediments, Pollution Prevention and Reduction, Ecological (Habitat) Protection and Restoration, Invasive Species, Habitat Indicator Development, and Emerging or Strategic Issues.

DATES: The deadline for submission of Proposals is February 15, 2002.

Document Availability: The RFP is available on the Internet at *http://www.epa.gov/glnpo/fund/2002guid/*. It is also available from Lawrence Brail (312–886–7474/*brail.lawrence@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Mike Russ, EPA-GLNPO, G–17J, 77 West Jackson Blvd., Chicago, IL 60604 (312–886–4013/*russ.michael@epa.gov*).

SUPPLEMENTARY INFORMATION: USEPA's Great Lakes National Program Office is targeting a total of $2.9 million to award in the summer and fall of FY 2002 for Great Lakes projects pertaining to: Contaminated Sediments; Pollution

Prevention and Reduction (Binational Toxics Strategy); Ecological (Habitat) Protection and Restoration; Invasive Species; Habitat Indicator Development; and Strategic or Emerging Issues. Assistance (through grants, cooperative agreements, and interagency agreements) is available pursuant to Clean Water Act section 104(b)(3) for activities in the Great Lakes Basin and in support of the Great Lakes Water Quality Agreement. State pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, and organizations are eligible to apply. Potential applicants can find the Request for Proposals, including evaluation criteria and the Proposal development and submittal program, on the Internet at http://www.epa.gov/glnpo/fund/2001guid/.

Dated: December 20, 2001.

Gary V. Gulezian,

Director, Great Lakes National Program Office.

[FR Doc. 02–625 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34143C; FRL–6817–5]

Dimethoate; Receipt of Requests for Amendments and Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The companies that distribute technical dimethoate, O,O- dimethyl S-(*N*-methylcarbamoylmethyl) phosphorodithioate for formulation of pesticide products containing dimethoate have asked EPA to amend their manufacturing-use product registrations. In addition, the companies holding end-use registrations have asked EPA to cancel or amend their registrations for end-use products containing dimethoate to delete all uses with possible residential exposures. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requests for voluntary cancellation were submitted to EPA in April to December 2001. EPA intends to grant the requested cancellations and amendments to delete uses. EPA also plans to issue a cancellation order for the deleted uses and the canceled registrations at the close of the comment period for this announcement. Upon the issuance of the cancellation order, any distribution, sale, or use of dimethoate products listed in this Notice will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments on the requested amendments to delete uses and the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34143C. Comments must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34143C in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8180; fax number: (703) 308–7042; e-mail address: dobak.pat@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stocks provisions that will be set forth in the cancellation order that the Agency intends to issue at the close of the comment period for this announcement.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use dimethoate products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for dimethoate, go to the Home Page for the Office of Pesticide Programs or go directly http://www.epa.gov/pesticides/op/dimethoate.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34143C. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34143C in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34143C. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses.

A. Background

In a letter dated August 3, 2001, Cheminova Agro F/S, the manufacturer of technical dimethoate, requested cancellation of all residential and certain agricultural uses from their dimethoate products. In addition, the other registrants holding pesticide registrations for manufacturing-use products containing dimethoate also requested label amendments in order to exclude these uses. The registrants holding pesticide registrations for end-use products containing dimethoate requested label amendments removing these uses from their products. Since several of these products were marketed solely for retail (residential) uses, several registrants requested that EPA cancel these registrations. EPA intends to grant the requested cancellations at the close of the comment period for this announcement. Pursuant to section 6(f)(1) of the FIFRA, EPA is announcing the Agency's receipt of these requests and EPA's intention to amend dimethoate registrations to delete all residential and certain agricultural uses which are identified in the following Table 1.

TABLE 1.—DIMETHOATE USES THAT ARE VOLUNTARILY CANCELLED OR DELETED BY THE REGISTRANTS

Residential and Public Area Uses	Agricultural Uses
Any use in or around a structure used as a residence or domestic dwelling, or on any articles or areas associated with such structures (including household contents, home gardens, and home greenhouses).	Housefly treatments on farm buildings and structures, farm animal quarters, and manure piles.
Any use in public or private building or structure (including recreational facilities, theaters, hotels, resorts, or other buildings used for public accommodation, or in any other commercial, industrial, or institutional building), or on any articles or areas associated with such structures, including refuse areas, building contents, and landscaping and playgrounds.	

The Agency recognizes that dimethoate use on outdoor commercial ornamental tree, shrub and annual plant production areas is being supported by the technical registrants. While use on ornamentals in other settings is no longer being supported, outdoor commercial ornamental production areas may remain on dimethoate labels.

B. Requests for Voluntary Cancellation of Manufacturing-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend the registrations of their pesticide end-use products containing diazinon to delete certain uses from certain products. The following Table 2 identifies the registrants and the product registrations that they wish to amend to remove the uses listed in Table 1.

TABLE 2.—MANUFACTURING-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration No.	Product
Cheminova Agro F/S	4787–7	Chemathoate Technical
BASF Corporation	7969–32	Perfekthion Manufactures' Technical
Gowan Company	10163–211	Gowan Dimethoate Technical
Drexel Chemical Company	19713–209	Drexel Dimethoate Technical
Platte Chemical Company Inc.	34704–788	Dimethoate Technical
Micro-Flo Company LLC	51036–279	Dimethoate Technical

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. The aforementioned companies have requested to amend their registrations and have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. EPA expects to grant the requested cancellations at the close of the comment period for this announcement.

C. Requests for Voluntary Cancellation of End-Use Products

In addition to requesting voluntary cancellation of manufacturing-use products, registrants holding registrations for dimethoate end-use products have requested voluntary cancellation of the following end-use product registrations containing dimethoate. The end-use products for which cancellation was requested are identified in Table 3.

TABLE 3.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration No.	Product
Bonide Products, Inc.	4–256	Bonide Systemic Insecticide
Value Garden Supply, LLC	70–113 192–134 5887–128	Kill-Ko Cygon 2–E Systemic Insecticide Drexol Cygon Systemic Insecticide Black Leaf Cygon 2–E
Rockland Corporation	572–224	Rockland Residual Fly Spray
Universal Cooperatives Inc.	1386–449	Cygon 2E Systemic Insecticide
AMVAC Chemical Corporation	5481–54	ALCO Cygon 2 E
Celaflor GMBH	69129–3	Celaflor Rose Patch

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless (1) the registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. In this case, all of the registrants have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested cancellations. EPA expects to grant the requested cancellations at the close of the comment period for this announcement.

D. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, Dragon Chemical Corporation, Value Gardens Supply, LLC, Uniroyal Chemical Company Inc., Southern Agricultural Insecticides Inc., Universal Cooperatives Inc., Helena Chemical Company, Voluntary Purchasing Group Inc., BASF Corporation, Agriliance, LLC, Platte Chemical Company, Inc., Haco, Inc., Micro-Flo Company LLC, and Cheminova Agro F/S have also submitted a request to amend their other end-use registrations of pesticide products containing dimethoate to delete the uses described in Table 1 from any product bearing registered for such use. The registrations for which amendments to delete uses were requested are identified in the following Table 4.

TABLE 4.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration No.	Product
Dragon Chemical Corporation	16–160	Dragon Cygon 2–E Systemic Insecticide
Value Gardens Supply, LLC	769–948	Pratt Cygon 2–E Systemic Insecticide
Uniroyal Chemical Company Inc.	400–278	De-Fend E267 Dimethoate Systemic Insecticide
Southern Agricultural Insecticides, Inc.	829–251	SA–50 Brand Cygon 2–E Dimethoate Systemic Insecticide
Universal Cooperatives Inc.	1386–618 1386–625	Cygon 2–E Systemic Insecticide Dimethoate 267 EC Systemic Insecticide
Drexel Chemical Company	19717–232	Drexel Dimethoate 2.67
Helena Chemical Company	5905–493 5905–497	Dimethoate 4EC 5 lb. Dimethoate Systemic Insecticide
Voluntary Purchasing Group Inc.	7401–338	Hi-Yield Cygon
BASF Corporation	7969–38	Rebelate 2E Insecticide
Agriliance, LLC	9779–273	Dimate 4E
Platte Chemical Company, Inc.	34704–207 34704–489 34704–762 34704–762	Clean Crop Dimethoate 400 Dimethoate 2.67 EC Flygon 2–E Flygon 2–E
Haco, Inc.	2393–377	Cygon 2–E Systemic Insecticide
Micro-Flo Company LLC	51036–110 51036–198	Dimethoate 4E Cymate 267
Cheminova Agro F/S	67760–36 67760–44	Chemathoate 267 E.C. Systemic Insecticide Dimethoate 4W

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. These companies have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. EPA expects to grant the requested amendments to delete the uses described in Table 1 at the close of the comment period for this announcement.

III. Existing Stocks

The registrants have requested voluntary cancellation of the dimethoate registrations identified in Tables 2 and 3, and submitted amendments to amend registrations identified in Table 4 to delete uses of dimethoate identified in Table 1. Pursuant to section 6(f) of FIFRA, EPA expects to grant these requests for voluntary cancellation and amendment upon the close of the comment period. EPA anticipates that the cancellation order would allow for 1–year use of existing stocks, defined in EPA's existing stocks policy (56 FR 29362, June 26, 1991) as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and/or released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale, or use of existing stocks 1–year after the effective date of the amendment or cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental protection, Pesticides and pests.

Dated:January 2, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–631 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34165C; FRL–6817–3]

Disulfoton and Naled Receipt of Requests for Voluntary Cancellation of Products and Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from the registrants Bayer Corporation; Value Garden Supply, LLC; and Sergeant's Pet Products, Inc. to cancel some products and/or delete uses for products containing disulfoton, [O,O-diethyl S-(2-(ethylthio)ethyl) phosphorodithioate]; and naled, [1,2-dibromo-2,2-dichloro-ethyl dimethyl phosphate]. EPA received these requests for voluntary cancellation and use deletion in response to future reregistration eligibility decisions for these individual pesticides.

DATES: Comments on the requested registration cancellations and use deletions must be submitted to the address provided below and identified by docket control number OPP–34165C. Comments must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided under **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, you must identify docket control number OPP–34165C in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: For information concerning disulfoton contact: Christina Scheltema, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–2201; fax number: (703) 308–8041; e-mail address: scheltema.christina@epa.gov.

For information concerning naled contact: Tom Myers, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–8589; fax number: (703) 308–8041; e-mail address: myers.tom@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stock provisions that will be set forth in the cancellation order the Agency intends to issue at the close of the comment period for this announcement, absent adverse comments.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute or use disulfoton or naled products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person or persons listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Obtain Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the **Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34165C. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Record Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and When Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify a docket control number OPP–34165C in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), U.S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34165C. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of the information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses.

A. Background

EPA is publishing a single notice in response to registrants' requests to cancel products and/or delete product uses for disulfoton and naled from their labels. (See the table below for specific information regarding the cancellation or deletion requests).

Registration Eligibility Decision (RED) documents summarize the findings of EPA's reregistration process for individual chemical cases, and reflect the Agency's decisions on risk assessment and risk management for uses of individual pesticides. Naled and disulfoton belong to a group of pesticides known collectively as organophosphates (OPs). EPA will issue Interim Reregistration Eligibility Decisions assessing the risks of exposure from individual organophosphates in the near future. EPA will also consider the cumulative risks from all organophosphates, as they all share a common mechanism of toxicity affecting the nervous system by inhibiting *cholinesterase*.

Disulfoton is an insecticide first registered in 1961, to control a variety of pests affecting domestic indoor and outdoor potted plants and ornamentals, including herbaceous plants, flowers, woody shrubs and trees. Naled is an insecticide and acaricide first registered in the United States in 1959, primarily used to control mosquitos (70% of its use). As part of the reregistration process, Value Garden Supply, LLC and Bayer Corporation have elected to voluntarily cancel certain products and/or delete product uses from their product labels rather than develop the data necessary to support reregistration. Sergeant's Pet Products has requested voluntary cancellation of certain end-use product registrations.

EPA will consider any comments received within 30 days of publication of this notice in the **Federal Register** prior to cancelling affected uses.

B. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use and Technical Product Labels

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend some of their technical and/or end-use registrations of pesticide products containing disulfoton and naled, deleting the listed product(s) bearing such use. The registrations, for which amendments to delete products and/or uses were requested, are identified in the following table:

NOTICE FOR VOLUNTARY CANCELLATION OF REGISTERED USES

Chemical	PC Code	Company Address	Nature of Action	Products Affected (EPA Reg. #)	Uses Deleted
Disulfoton	032501	Bayer Corporation 8400 Hawthorn Road P.O. Box 4913 Kansas City, MO 64120–0013	Use deletions	Di-Syston Technical (3125–183) Di-Syston 68% Concentrate (3125–158) Di-Syston 15% (3125–172) Di-Syston 8 (3125–307)	Dry beans, peas and lentils, poplars grown for pulpwood, sorghum, soybeans, tobacco, triticale
Disulfoton	032501	Value Garden Supply, LLC Rt. 2 Box 956 New Castle, VA 24127	Product cancellations	Rigo Insyst-D (70–236) Pratt Noculate Systemic Insecticide Granule (769–850)	
Naled	034401	Sergeant's Pet Products, Inc. P.O. Box 18993 Memphis, TN 3818	Product cancellations	Sergeant's Sentry IV Flea and Tick Collar for Dogs (2517–43) Sergeant's Sentry IV for Cats (2517–44) Sergeant's Sentry V Flea and Tick Collar for Dogs (2517–45) Sergeant's Sentry V Tick Collar for Cats (2517–46)	

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses or request a voluntary cancellation of a product registration. The aforementioned companies have requested to amend their registrations and that EPA waive any applicable 180–day comment period that applies to cancellation and/or deletion of minor agricultural uses. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses or cancel product registrations. EPA intends to grant the requested amendments to delete uses or cancel

product registrations at the close of the comment period for this announcement.

III. Proposed Existing Stocks Provisions

The registrants have requested voluntary cancellation for the disulfoton and naled registrations identified in the table. EPA intends to grant the requests for voluntary cancellations and use deletions. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this announcement, the term ''existing stocks'' will be defined, as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently used in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. For disulfoton products, EPA intends to permit registrants of these products to distribute and sell existing stocks of cancelled products or products bearing deleted uses for 12 months from the effective date of cancellation. In the case of naled, the registrant has requested the effective date of cancellation to be March 1, 2002, as well as a provision for the sale or distribution of existing stocks until December 31, 2002. EPA intends to grant this request. The Agency also intends to permit all persons other than the registrant to sell, distribute, or use disulfoton or naled products until supplies are exhausted. Any distribution, sale, or use of existing stocks that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental protection, disulfoton, naled, use terminations/deletions, administrative practice and procedure, agricultural commodities, pesticides and pests.

Dated: January 2, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–629 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30519; FRL–6816–3]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30519, must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30519 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Driss Benmhend, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9525; and e-mail address: benmhend.driss@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30519. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30519 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30519. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File symbol number: 72994-E. Applicant: Gard Products, Inc., 250 Williams Road, Carpentersville, IL 60110. Product name: Silgard. Product type: Plant growth regulator. Active ingredient: Contains 0.35% of the new active ingredient sodium silver thiosulfate. Proposed classification/Use: For use as protector from ethylene effects on cut flowers.

2. File symbol number: 72994-R. Applicant: Same as above. Product name: Silgard Technical. Product type: Plant growth regulator. Active ingredient: Contains 0.35% of the new active ingredient sodium silver thiosulfate. Proposed classification/Use: For manufacturing use of end use products to be used to inhibit the effects of ethylene on cut flowers.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: December 26,2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–630 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7127–7]

Maryland State Prohibition on Discharges of Vessel Sewage; Final Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the Regional Administrator, Environmental Protection Agency (EPA) Region III has affirmatively determined, pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the navigable waters of Herring Bay, Anne Arundel County, and the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay), Worcester County, Maryland. Maryland will completely prohibit the discharge of sewage, whether treated or not, from any vessel in Herring Bay and in the northern Coastal Bays.

FOR FURTHER INFORMATION CONTACT: Edward Ambrogio, U.S. Environmental Protection Agency, Region III, Office of Ecological Assessment and Management, 1650 Arch Street, Philadelphia, PA 19103. Telephone: (215) 814–2758. Fax: (215) 814–2782. E-mail: *ambrogio.edward@epa.gov.*

SUPPLEMENTARY INFORMATION: These petitions were made jointly by the Maryland Department of the Environment (MDE) and the Maryland Department of Natural Resources (MDNR). Upon publication of this affirmative determination, Maryland will completely prohibit the discharge of sewage, whether treated or not, from any vessel in Herring Bay and in the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay) in accordance with

section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a). Notice of the Receipt of Petition and Tentative Determination was published in the **Federal Register** on October 17, 2001 (66 FR 52763, Oct. 17, 2001). Comments on the tentative determination were accepted during the 30-day comment period which closed on November 16, 2001. No comments were received. The remainder of this Notice summarizes the location of the no discharge zone, the available pumpout facilities and related information.

Herring Bay

The Herring Bay no discharge zone (NDZ) is a 3,145-acre area of water located along the western shore of the Chesapeake Bay in southern Anne Arundel County. The area includes Rockhold, Tracy, and Parker Creeks on the north and Rose Haven Harbor on the south. The NDZ includes tidal waters west of the following: beginning on Holland Point at or near 38°43′34.9″N latitude/76°31′37.3″W longitude, then running in a northerly direction to Crab Pile A at or near 38°46′33.0″N latitude/76°32′10.1″ W longitude, then running to a point on the north shore of Parkers Creek at or near 38°46′39.1″N latitude/76°32′10.8″W longitude.

The Herring Bay watershed is approximately 25 square miles. Although traditionally a farming area, several residential communities are located within the watershed including some that are located along the shoreline. Herring Bay is also a very popular recreational boating area and is home to 16 marinas containing 2,090 slips.

Long-term pollution problems that have impacted Herring Bay include failing septic systems, discharge from a private sewage treatment plant, and runoff from farm and other lands. With the number of marinas in the area, recreational boating is also a concern. The potential for bacterial contamination from all sources of pollution, including boat sewage, has resulted in the on-going closure of the oyster beds, however, recent water quality data does not show consistent high levels of fecal coliform in the area.

Currently, there are no public or private sewage treatment plants that impact Herring Bay. Although the Broadwater Wastewater Treatment Plant is north of Herring Bay and the Chesapeake Beach Wastewater Treatment Plant is south of Herring Bay, neither plant's discharges affect Herring Bay. Until very recently, there had, however, been a private treatment plant at Rose Haven which discharged into Herring Bay. That plant is now closed and the sewage from Rose Haven currently goes to the Chesapeake Beach Wastewater Treatment Plant.

Information submitted in the application states that there are a total of nine pumpout facilities currently in Herring Bay, of which eight provide portable toilet disposal through the use of a wand attachment to the pumpout hose. Eight of the nine pumpout facilities currently available to the general public are located at six marinas. Each of the six marinas is a privately owned facility that used Clean Vessel Act (75%) and state funds (25%) to install their pumpouts. Each facility that is open to the general public is limited to charging no more than $5.00 per pumpout. One of the nine pumpouts is located at a 61-slip marina and is only available to slipholders. To provide a conservative estimate of pumpout availability, this private pumpout was not included in the application's calculations. Also not included were two additional marinas that have applied for grant funding to install pumpouts which should become operational during the 2001 boating season. For the purposes of this application, therefore, there are a total of eight pumpouts in Herring Bay, of which seven provide portable toilet disposal. Maryland's boating season is generally considered to be from April 15 to November 15, with very little recreational boating activity occurring in the winter. For the few boats in Herring Bay that may need to be pumped out in the off-season, both of Herrington Harbour North's pumpouts and one of Herrington Harbour South's pumpouts are open throughout the year. The other pumpouts are open during the boating season only. For those marinas with wand attachments (all facilities except Sherman's), portable toilets may be emptied whenever the pumpouts are open. Details of these facilities' location, availability and hours of operation are as follows:

Gates Marine Services is an 88-slip facility located on Rockhold Creek north of the Deale Road bridge. The marina has a trailer mounted pumpout installation located at the travel lift. A wand attachment is used to empty portable toilets. The marina's sewage disposal hours of operation are 8:00 am–4:30 pm Monday through Friday, 8:00 am–4 pm Saturday and Sunday.

Harbor Cove Marina is a 78-slip facility located on Rockhold Creek north of the Deale Road bridge. The marina has a fixed pumpout installation which is located at the gas dock (''C'' dock). A wand attachment is used to empty portable toilets. The marina's sewage disposal hours of operation are 8:00 am–6:00 pm seven days per week.

Herrington Harbour North is a 670-slip marina located at the junction of Rockhold Creek and Tracy Creek in northern Herring Bay. The marina has a fixed pumpout installation which is located on the T head of ''D'' Dock and it also has a portable pumpout that is used for pumpouts throughout the marina. Both pumpouts utilize wand attachments to empty portable toilets. The marina's sewage disposal hours of operation are 9:00 am–5:00 pm seven days per week.

Herrington Harbour South is a 650-slip marina located on Rose Haven Harbor in southern Herring Bay. The marina has a fixed pumpout installation which is located on the fuel dock (''D'' Dock) and it also has a pumpout boat that travels throughout the marina pumping out both slip holders and transient vessels. Both pumpouts utilize wand attachments to empty portable toilets. The marina's sewage disposal hours of operation are 24 hours daily (self-serve) seven days per week, staffed 8:00 am–6:00 pm seven days per week between May 31 and September 7.

Sherman's Marina is a 26-slip facility located on Rockhold Creek north of the Deale Road bridge. The marina has a fixed pumpout installation which is located on the ''B'' dock. The marina's sewage disposal hours of operation are during daylight hours seven days per week.

Shipwright Harbor is a 250-slip facility located at the mouth of Rockhold Creek in northern Herring Bay. The marina has a fixed pumpout installation which is located near the travel lift. A wand attachment is used to empty portable toilets. The marina's sewage disposal hours of operation are 9:00 am–5:00 pm seven days per week.

Under Maryland law (Natural Resources Article § 8–707), each grant funded pumpout project must be approved by MDE. The MDE, in turn, consults with the local health/permitting authority to ensure that the proposed pumpout and sewage disposal method is in compliance with all applicable Federal and state laws. All six of the marinas in Herring Bay that have pumpouts open to the public, used grant funding to obtain their pumpouts (a total of eight pumpout facilities). All of these projects were approved by MDE upon the recommendation of the Anne Arundel County Department of Utilities. All six marinas discharge to either the

Chesapeake Beach Wastewater Treatment Plant, or to the Broadwater Wastewater Treatment Plant via either a direct connection, or by a licensed septage hauler.

The MDNR maintains records on the number and size of vessels registered and documented in Maryland's waters. In an attempt to estimate transient vessels in the area, a representative of the two largest marinas in Herring Bay was contacted and asked to estimate how many transient vessels, by size, are typically in Herring Bay on a typical high-volume day during the boating season. Included in the number of registered vessels are charter boats generally used for fishing. From this information, the vessel population of Herring Bay based on length is 638 vessels less than16 feet, 906 vessels between 16 and 26 feet, 1,111 vessels between 26 and 40 feet, and 158 vessels over 40 feet. Based on the number and size of boats, and using various methods to estimate the number of on-board holding tanks and portable toilets, it was determined that Herring Bay needs a total of five pumpouts and one dump station. As described above, Herring Bay is currently served by eight operational pumpouts, of which seven provide portable toilet disposal. Additionally, two other marinas (Paradise Marina and Rockhold Creek Marina) are actively participating in the pumpout grant program and should complete their installations by the start of the next boating season in early 2002.

Northern Coastal Bays

The proposed northern Coastal Bays no discharge zone (NDZ) was initially described to include all tidal waters north of the Ocean City Inlet, including Isle of Wight Bay and Assawoman Bay, defined by the points 38°19′23.83″N latitude/75°5′14.36″W longitude to 38°19′35.77″N latitude/75°06′27.68″W longitude, to the Delaware state line. Based upon a reevaluation of the spacial coordinates by MDNR, this NDZ has been slightly expanded and now includes the waters of the Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay, defined as follows: Ocean City Inlet—west of a line beginning at a point at or near the east end of the north Ocean City Inlet jetty, defined by 38°19′27.0″N latitude/75° 05′5.5″W longitude; then running approximately 248° (true) to a point at or near the east end of the south Ocean City Inlet jetty, defined by 38°19′20.7″N latitude/75°05′24.9″W longitude; and, Sinepuxent Bay—north of a line beginning at a point at or near the shore of the southeast entrance of the Ocean City commercial fish harbor (Swordfish Basin), defined by 38°19′37.0″N latitude/75°06′ 6.0″W longitude; then running approximately 110° (true) to a point at or near the shore at the northwest tip of Assateague Island, defined by 38°19′32.0″N latitude/ 75°05′49.0″W longitude; and, Maryland-Delaware Line—south of the Maryland-Delaware line beginning at a point at or near the east side of Assawoman Bay, defined by 38°27′4.5″N latitude/ 75°04′11.2″W longitude; then running approximately 270° (true) to a point at or near the west side of Assawoman Bay, defined by 38°27′4.4″N latitude/ 75°05′9.3″W longitude.

The Maryland Coastal Bays are comprised of five large tidal bays (Assawoman, Isle of Wight, Sinepuxent, Newport, and Chincoteague) that are bounded by two barrier islands (Fenwick and Assateague). The drainage basin feeding into the watershed is 117,939 acres and is characterized by poor flushing ability due to two narrow inlets. The land surrounding the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay) is primarily agriculture, forested or marsh but also includes the largest percentage of developed land surrounding all five Coastal Bays (Ocean Pines and Ocean City). The population of Worcester County is expected to increase significantly over the next 10 years and reach 50,000 before the year 2010. Currently, Worcester County is the second fastest growing county in the state.

In 1996 the MDE listed the northern Coastal Bays (specifically Assawoman and Isle of Wight) on the Clean Water Act Section 303(d) impaired waters list as a priority area for excessive nutrients, low dissolved oxygen, and elevated fecal coliform counts. MDE is currently in the process of having a Total Maximum Daily Load (TMDL) model calculated for the above listed substances. The St. Martin's River, a large freshwater tributary leading to the Isle of Wight Bay, along with Herring and Turville Creeks are currently listed as ''restricted for shellfish harvest'' by MDE as well.

There is one wastewater treatment plant, located within the residential community of Ocean Pines, that discharges treated effluent into the Isle of Wight Bay. The Ocean City Wastewater Treatment Plant in Ocean City discharges treated effluent several miles offshore into the Atlantic Ocean.

Information submitted in the application states that there are a total of nine pumpout facilities currently in the northern Coastal Bays, of which five provide portable toilet disposal through the use of a wand attachment to the pumpout hose or at dump stations. Eight of the nine pumpout facilities that are available to the general public, as well as all facilities that provide portable toilet disposal are located at six marinas. Each of the six marinas is a privately owned facility; four used Clean Vessel Act (75%) and state funds (25%) to install their pumpouts. These four marinas are limited to charging no more than $5.00 per pumpout. One of the nine pumpouts is located at a marina that is only available to slipholders. To provide a conservative estimate of pumpout availability, this private pumpout was not included in the application's calculations. Also not included was one additional marina that applied for grant funding to install a pumpout which should become operational during the 2002 boating season. For the purposes of this application, therefore, there are a total of eight pumpouts in the northern Coastal Bays, of which five provide portable toilet disposal via a wand attachment or a dump station. Maryland's boating season is generally considered to be from April 15 to November 15, with very little recreational boating activity occurring in the winter. For the few boats in the northern Coastal Bays that may need to be pumped out in the off-season, Advanced Marina's pumpout is open throughout the year. The other pumpouts are generally open during the boating season only. Details of these facilities' location, availability and hours of operation are as follows:

Advanced Marina is a 60-slip marina located at 66th St., Ocean City on Isle of Wight Bay. The marina has a portable pumpout unit and potty wand attachment for emptying portable toilets. The marina's sewage disposal hours of operation are 8:00am–8:00pm seven days per week, all year.

Harbour Island Marina is a 110-slip marina located at 14th St., Ocean City on Isle of Wight Bay. The marina has one fixed pumpout unit at the entrance to the marina and one potty wand attachment for emptying portable toilets. The marina's sewage disposal hours of operation are 6:00am–8:00pm seven days per week, from May through September.

Ocean City Fishing Center is a 240-slip marina located near the Route 50 bridge in West Ocean City on the Isle of Wight Bay. The marina has one fixed pumpout unit located next to the marina office. The marina's

sewage disposal hours of operation are 5:00am–8:00pm seven days per week, from May through September.

Ocean Pines Marina is an 86-slip marina located near the Route 90 bridge in Ocean Pines on the St. Martins River. The marina has one fixed pumpout located at the end of pier A. The marina's sewage disposal hours of operation are 8:00am–6:00pm Monday through Friday, 7:00am–7:00pm Saturday and 7:00am–6:00pm Sunday, from May through October.

Sunset Marina is a 204-slip marina located at the Ocean City Inlet in West Ocean City on Isle of Wight Bay. The marina has one fixed pumpout with two remote stands, each at the end of successive piers, one portable unit with potty wand attachment for emptying portable toilets, and one dump station on the bulkhead. The marina's sewage disposal hours of operation are 9:00am–5:00pm seven days per week, from May through September.

Townes of Nantucket II is a 92-slip marina located at Nantucket Point near the Delaware state line in Ocean City on Assawoman Bay. The marina has one fixed pumpout and one dump station for portable toilets, both located at the ''A'' bulkhead. The marina's sewage disposal hours of operation are 24 hours a day, seven days per week, from April through October.

Marinas participating in the Maryland Pumpout Program are required by law (Natural Resources Article § 8–707) to have an approved method of sewage disposal as determined by MDE and local (county or municipal) health inspectors. Four of the six marinas participated in the Maryland Pumpout Program, and therefore are in compliance with state and Federal laws. Information about the removal of pumpout waste from the other two marinas was obtained through marina surveys. Of the six marinas described above, five discharge to the Ocean City Wastewater Treatment Plant; the remaining marina discharges to the Ocean Pines Wastewater Treatment Plant.

The MDNR maintains records of all documented and registered boats in the state. In order to estimate the number of transient boaters, several methods were employed. First a marina survey was conducted where marina owners were asked to estimate the percentage of transient boaters that utilize their facility and the northern Coastal Bays. Second, information collected from a 1999 aerial survey of the northern Coastal Bays, conducted by the MDNR Fisheries Department, was used to determine types and sizes of boats using the waters on a peak day in-season. Finally, a land survey was conducted where MDNR employees surveyed Coastal Bay vessel usage on a typical day during the season. All of these methods were employed to come up with a best estimate for transient usage. It was estimated, using the above techniques, that Ocean City/northern Coastal Bays have approximately 10,000 wet slips. It was also assumed that the transient boat population mirrored the resident population as far as relative percent of the size and numbers of boats. Based on this information the vessel population of the northern Coastal Bays based on length is 2,800 vessels less than 16 feet, 6,600 vessels between 16 and 26 feet, 600 vessels between 26 and 40 feet, and 100 vessels over 40 feet. Based on the number and size of boats, and using various methods to estimate the number of holding tanks and portable toilets, it was determined that the northern Coastal Bays need three pumpouts and five dump stations. There are currently eight operating pumpouts and one proposed pumpout in the northern Coastal Bays along with two dump stations and three pumpouts equipped to empty portable toilets making a total of five portable toilet waste facilities. There is also one proposed pumpout that would accept portable toilets by the start of the next boating season in early 2002.

Finding

The EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Herring Bay, Anne Arundel County, Maryland, and the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay), Worcester County, Maryland. This final determination will result in a Maryland state prohibition of any sewage discharges, whether treated or not, from vessels into Herring Bay and the northern Coastal Bays.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 02–627 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, January 15, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, January 17, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Revised Draft Advisory Opinion 2001–17: DNC Services Corporation/Democratic National Committee by counsel, Neil Reiff.

Draft Advisory Opinion 2001–18: BellSouth Corporation by counsel, Jan Witold Baran.

Draft Advisory Opinion 2001–19: Oakland Democratic Campaign Committee by Gary Kohut, Chair.

Administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–776 Filed 1–8–02; 2:32 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Policy on Use of Potassium Iodide (KI)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of revised Federal policy.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) has revised the 1985 Federal policy regarding the use of potassium iodide (KI) as a thyroidal blocking agent by emergency workers, institutionalized persons and the general public in the vicinity of nuclear power plants. This policy is for use by State [1] and local

[1] Consistent with FEMA initiative 4.0–4.4, Include Native American Tribal Nations in the REP

Continued

agencies responsible for radiological emergency planning and preparedness in the unlikely event of a major radiological emergency at a commercial nuclear power plant.

The Federal position is that KI should be stockpiled and distributed to emergency workers and institutionalized persons for radiological emergencies at a nuclear power plant and its use should be considered for the general public within the 10-mile emergency planning zone (EPZ) of a nuclear power plant. However, the decision on whether to use KI for the general public is left to the discretion of States and, in some cases, local governments.

EFFECTIVE DATE: The modifications to this policy are effective January 10, 2002.

FOR FURTHER INFORMATION CONTACT: Russell Salter, Chair, Federal Radiological Preparedness Coordinating Committee; (202) 646–3030; *russ.salter@fema.gov.*

SUPPLEMENTARY INFORMATION:

Background

This revised Federal policy on the use of potassium iodide as a thyroidal blocking agent for the general public in the vicinity of nuclear power plant 10-mile emergency planning zones is part of a Federal interagency effort coordinated by FEMA for the FRPCC. FEMA chairs the FRPCC and assumes the responsibility for this publication. The FRPCC is an interagency organization, with membership from 17 Federal agencies, established to coordinate all Federal responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies.

The issue is addressed in terms of two components of the population that might require or desire potassium iodide use: (a) Emergency workers and institutionalized individuals, and (b) general population. With respect to emergency workers and institutionalized individuals, the Nuclear Regulatory Commission (NRC) and FEMA have issued guidance to State and local authorities, as well as to licensees of operating commercial nuclear power plants, in NUREG–0654/FEMA–REP–l, Rev.1. The NUREG and FEMA guidance recommends the stockpiling and distribution of KI to emergency workers and to institutionalized individuals for thyroidal blocking during emergencies. The guidance provides information regarding protective actions to be taken in the event of an incident at a commercial nuclear power plant. NUREG 0654 and the 1985 FRPCC KI policy recommend thyroidal blocking for emergency workers and institutionalized individuals because they are thought to be more likely than other members of the public to be exposed to the radioiodine in an airborne radioactive release.

The decision for using KI as a protective measure for the general public is left to the discretion of States, or in some cases, local governments, since these entities are ultimately responsible for the protection of their citizens. The policy guidance in this **Federal Register** notice is intended for State and local governments that, within the limits of their authority, should consider these recommendations in the review of their emergency plans and in determining appropriate actions to protect the general public. In making a decision whether to stockpile KI, the States should be aware that the Federal government believes that the use of KI is a reasonable and prudent measure as a supplemental protective action for the public.

Revision of the policy to include members of the public reflects lessons learned from the Chernobyl Nuclear Power Plant accident of 1986, both about the consequences of an accident and about the safety and efficacy of KI. The Chernobyl accident demonstrated that thyroid cancer can indeed be a major result of a large reactor accident. Based on the experiences from Chernobyl, young children are at greatest risk of thyroid cancer from radioactive iodine exposure. Moreover, although the Food and Drug Administration (FDA) declared KI ''safe and effective'' as long ago as 1978, the drug had never been deployed on a large scale until Chernobyl. The experience of Polish health authorities during the accident has provided confirmation that large-scale deployment of KI is safe.[2] The Chernobyl experiences also led to wide-scale changes in international practice, specifically 1989 World Health Organization recommendations (updated in 1995 and 1999) and 1996 and 1997 International Atomic Energy Agency standards and guidance, which have led to the use of KI as a supplementary protective measure in much of Europe, as well as in Canada and Japan.

The NRC published changes to its emergency planning regulations at 66 FR 5441–5443, January 19, 2001. For States within the 10-mile planning zone of a nuclear power plant(s), the NRC believes that the use of KI is a reasonable and prudent measure as a supplement to sheltering and evacuation and in response to specific local conditions. The NRC requires consideration in the formulation of emergency plans as to whether to include the use of KI as a supplemental protective measure.

The FDA has evaluated the medical and radiological risks of administering KI for emergency conditions, has concluded that it is safe and effective, and has approved over-the-counter sale of the drug for this purpose. FDA has concluded that ''* * * the effectiveness of KI as a specific blocker of thyroid radioiodine uptake is well-established as are the doses necessary for blockage. As such, it is reasonable to conclude that KI will likewise be effective in reducing the risk of thyroid cancer in individuals or populations at risk for inhalation or ingestion of radioiodines.'' Since the FDA has authorized the nonprescription sale of KI, it may be available to individuals who, based on their own personal analysis, choose to have the drug immediately available. The FDA guidance is the definitive Federal guidance on medical aspects of KI prophylaxis.

Considerations

In making a decision whether to stockpile KI, States should be aware that the Federal government believes that the use of KI is a reasonable and prudent measure as a supplemental protective action for the public.

While there may be logistical difficulties in providing KI to the general public, any distribution scheme should take care to ensure that KI distribution does not impede or delay orderly evacuation. There also may be a few medical side effects in pre-distributing the drug to potentially affected individuals or in distributing the drug to the general public in a radiological emergency. Although the post-Chernobyl data from Poland revealed few serious medical side effects associated with this drug, this possibility cannot be discounted, especially in certain groups of people. For example, people who are allergic to iodine should not take KI.

Other considerations to be evaluated by the State and local authorities in deciding whether to institute a program for the use of KI by the general public

Preparedness Process, references to State governments include Tribal governments.

[2] Nauman, J., and Wolff, J., Iodide Prophylaxis in Poland After the Chernobyl Reactor Accident: Benefits and Risks, American Journal of Medicine, Vol. 94, p. 524, May 1993.

include: (a) Whether KI should be distributed to the population before an accident occurs or as soon as possible after an accident occurs; (b) whether the risks of exposure to radioactivity will be lower if the evacuation of the general population is initiated—with or without the use of KI—or if the general population is sheltered and the administration of KI initiated; (c) how KI will be distributed during the emergency; (d) if KI is pre-distributed, what assumptions should be made about its actual availability and use in the event of an incident; (e) what medical assistance will be available for the individuals who may have some adverse reaction to KI; (f) how medical authorities will advise the population to take KI and under what circumstances this advice will be given, i.e., methods for public education, information and instruction; and (g) how the authorities will provide KI to transient populations.

In addition, there are some site-specific considerations to evaluate. Any decision by State and local authorities to use KI following a specific emergency should be based on the site environment and conditions for the specific operating commercial nuclear power plant and would include detailed plans for distribution, administration and medical assistance.

Revised Policy

In most cases, evacuation and in-place sheltering are considered adequate and effective protective actions for the general public in the event of a radiological emergency at a commercial nuclear facility. However, the inclusion of KI as a supplemental protective measure is beneficial in certain circumstances. It should be noted that the timely use of KI effectively reduces the radiation exposure of only the thyroid gland. While this is an important contribution to the health and safety of the individual, it is not as effective as measures that protect the total body of the individual from radioactivity. Both in-place sheltering and precautionary evacuations can reduce the exposure to the thyroid and total body. The use of KI for thyroidal blocking is not an effective means by itself for protecting individuals from the radioactivity in an airborne release resulting from a nuclear power plant accident and, therefore, should only be considered in conjunction with sheltering or evacuation, or a combination thereof.

While the use of KI can clearly provide additional protection in certain circumstances, the assessment of the effectiveness of KI and other protective actions and their implementation indicates that the decision to use KI (or other protective actions) should be made by the States and, when appropriate, local authorities on a site-specific basis. Thus, the decision on use of KI by the general public during an actual emergency is the responsibility of these authorities.

In summary, the Federal position is that KI should be stockpiled and distributed to emergency workers and institutionalized persons for radiological emergencies at a nuclear power plant, and its use should be considered for the general public within the 10-mile EPZ of a nuclear power plant. However, the decision on whether to use KI for the general public is left to the discretion of States and, in some cases, local governments.

This revised policy should not be taken to imply that the present generation of U.S. nuclear power plants is any less safe than previously thought. On the contrary, present indications are that nuclear power plant safety has steadily improved.

References

The following references are intended to assist State and local authorities in decisions related to use of KI:

1. Nuclear Regulatory Commission, final rule, Consideration of Potassium Iodide in Emergency Plans, 66 FR 5427, January 19, 2001.

2. World Health Organization, Guidelines for Iodine Prophylaxis Following Nuclear Accidents, 1999. Http://www.who.int/environmental information/Information_resources/documents/Iodine/guide.pdf.

3. National Council on Radiation Protection and Measures (NCRP) Protection of the Thyroid Gland in the Event of Releases of Radioiodine. NCRP Report No. 55, August 1, 1977.

4. Food and Drug Administration (Health and Human Services), Potassium Iodide as a Thyroid-Blocking Agent in a Radiation Emergency, 43 FR 58798, December 15, 1978.

5. Food and Drug Administration, Notice, Guidance on Use of Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies; Availability, 66 FR 64046, December 11, 2001.

6. Report of the President's Commission on the Accident at Three Mile Island, National Technical Information Service, Springfield, VA 22161.

7. Federal Emergency Management Agency, Federal Policy on Distribution of Potassium Iodide Around Nuclear Power Sites for Use as a Thyroidal Blocking Agent, 50 FR 30258, July 24, 1985.

8. Nauman, J., and Wolff, J., Iodide Prophylaxis in Poland After the Chernobyl Reactor Accident: Benefits and Risks, American Journal of Medicine, Vol. 94, p. 524, May 1993.

9. International Atomic Energy Agency, International Basic Safety Standards for Protection Against Ionizing Radiation and for Safety of Radiation Sources. Safety Series No. 115, 1996.

Dated: January 2, 2002.

Joe M. Allbaugh,

Director.

[FR Doc. 02–637 Filed 1–9–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 4, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to merge with Century Bancshares, Inc., Eden Prairie, Minnesota, and thereby indirectly acquire 100 percent of the voting shares of Century Bank, Eden Prairie, Minnesota.

2. Illini Corporation, Springfield, Illinois; to acquire 100 percent of the voting shares of Illinois Community Bancorp, Inc., Effingham, Illinois, and thereby indirectly acquire Illinois Community Bank, Effingham, Illinois.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Western Sierra Bancorp, Cameron Park, California; to acquire 100 percent of the voting shares of Central California Bank, Sonora, California.

Board of Governors of the Federal Reserve System, January 4, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–567 Filed 1–9–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10 a.m. (EST), January 22, 2002.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the December 10, 2001, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of KPMG LLP audit report: Executive Summary of the Fiduciary Oversight Program for the Thrift Savings Plan as of September 30, 2001.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: January 8, 2002.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 02–793 Filed 1–8–02; 3:23 pm]

BILLING CODE 6760–01–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Harry S. Truman Scholarship 2002 Competition

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice of closing for nominations from eligible institutions of higher education.

SUMMARY: Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for 2002 Truman Scholarships. Procedures are prescribed at 45 CFR 1801.

In order to be assured consideration, all documentation in support of nominations must be received by the Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006 no later than January 28, 2002 from participating institutions.

Dated: January 3, 2002.

Louis H. Blair,

Executive Secretary.

[FR Doc. 02–593 Filed 1–9–02; 8:45 am]

BILLING CODE 6820–AD–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry; Public Meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in Association With the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

Name: Public meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in association with the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Time and Date: 9 a.m.–4 p.m., January 23, 2002.

Place: WestCoast Tri-Cities Hotel, 1101 North Columbia Center Blvd., Kennewick, WA. Telephone: (509) 783–0611.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 25 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in September 2000 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC. Community Involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ICHHP is part of these efforts. The ICHHP will work with the HHES to provide input on American Indian health effects at the Hanford, Washington site.

Purpose: The purpose of this meeting is to address issues that are unique to tribal involvement with the HHES, and agency updates.

Matters To Be Discussed: Agenda items will include a dialogue on issues that are unique to tribal involvement with the HHES. This will include presentations and discussions on each tribal members respective environmental health activities, and agency updates. Agenda items are subject to change as priorities dictate.

For Further Information Contact: Alan Crawford, Executive Secretary, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE M/S E–54 Atlanta, Georgia 30333, telephone 1–888–42–ATSDR (28737), fax 404/498–1744.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office.

[FR Doc. 02–609 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the President Advisory Council on HIV/AIDS

January 3, 2002.

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Presidential Advisory Council on HIV/AIDS (Council) scheduled for January 28–29, 2001, at the White House Conference Center at 726 Jackson Place NW. The Council will meet both days from 8:30 a.m. until 5 p.m. The meetings will be open to the public, however space is limited. Possible attendees are strongly encouraged to pre-register by calling Shellie Abramson at (202) 260–8863.

Patricia Ware, Executive Director, Presidential Advisory Council on HIV and AIDS, 200 Independence Avenue, SW., Room 733–E, Washington, DC, (Voice-mail: (202) 205–2982, Fax: (202) 690–7560) will furnish the meeting agenda and roster of Council members upon request. Once a draft agenda has been finalized, it may also be accessed through the Council's website: *www.pacha.gov.* Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mike Starkweather at (301) 628–3141 no later than January 23, 2001.

Patricia Ware,

Executive Director, Presidential Advisory Council on HIV and AIDS.

[FR Doc. 02–641 Filed 1–9–02; 8:45 am]

BILLING CODE 3195–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Public Health and Science; Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AC ''Office of Public Health and Science'' as last amended at 66 FR 40288, dated August 2, 2001; is being amended to rename the Office of International and Refugee Health (ACH) and to incorporate the functions for international affairs presently in the Immediate Office of the Secretary, including the Exchange Visitor Waiver Review Board (45 CFR part 50), into the renamed Office of Global Health Affairs. The changes are as follows:

I. Under Part A Chapter AC, ''Office of Public Health and Science,'' make the following changes:

A. AC.10 Organization. Rename the ''Office of International and Refugee Health'' (ACH) as the ''Office of Global Health Affairs'' (ACH).

B. Under Paragraph AC.20 Functions, make the following changes:

1. Under Paragraph B, delete sentence (9) in its entirety and replace with the following: (9) Provides advice on international and refugee health policy and coordinates international health related activities and provides advice on a broad range of health activities that may be intra or interdepartmental in scope; coordinates and manages Departmental liaison with bilateral and multilateral health agencies; and on behalf of the Secretary, chairs and provides staff support for the Exchange Visitor Waiver Review Board;

2. Delete paragraph G. ''Office of International and Refugee Health (ACH)'' in its entirety and replace with the following:

G. Office of Global Health Affairs (ACH)—The Office of Global Health Affairs (OGHA) provides policy and staffing to the Assistant Secretary for Health, the Deputy Secretary and the Secretary for activities that are of a global nature, including international travel, meetings, and presentations. The Office of Global Health Affairs also has the following major functions: represents the Assistant Secretary for Health and the Secretary in international negotiations on health matters, coordinates and leads Departmental participation in the meetings of multilateral health organizations, including the World Health Organization, the Pan American Health Organization, UNICEF, UNAIDS and other international agencies; represents the Department in interagency working groups on international health issues; in consultation with appropriate OPDIV and STAFFDIV technical and political staff, clears all documents related to international health; reviews and approves international travel for all Departmental employees; promotes cooperative health programs with other countries; coordinates technical and policy-related federal input into refugee health issues; represents the Department on international health issues with other federal departments and agencies, international organizations, the private sector and foreign countries; carries out the Department's responsibilities under the U.S. Exchange Visitor Program; and, ensures protocol at all international functions/events.

Dated: December 10, 2001.

Ed Sontag,

Assistant Secretary for Administration and Management.

[FR Doc. 02–640 Filed 1–9–02; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Advisory Committee on Regulatory Reform; Request for Public Input; Correction

In the Notice document beginning on page 599 in the issue of Friday, January 4, 2002, make the following correction:

On page 600, in the first column the electronic address of the Committee's web site was inadvertently stated as *www.regreform.hh.gov.* The correct web site address is *www.regreform.hhs.gov.*

Dated: January 7, 2002.

John Gallivan,

Policy Coordinator.

[FR Doc. 02–642 Filed 1–9–02; 8:45 am]

BILLING CODE 4154–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 8 a.m.–5:30 p.m., January 24, 2002; 8 a.m.–4:30 p.m., January 25, 2002.

Place: WestCoast Tri-Cities Hotel, 1101 North Columbia Center Blvd., Kennewick, WA 99336. Telephone: (509) 783–0611.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in September 2000 between ATSDR and

DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to receive an update from the Inter-tribal Council on Hanford Health Projects; to review and approve the Minutes of the previous meeting; to receive updates from ATSDR/NCEH and NIOSH; to receive reports from the Outreach, Public Health Assessment, Public Health Activities, and the Studies Workgroups; and to address other issues and topics, as necessary.

Matters to be Discussed: Agenda items include a presentation and discussion on team building and consensus advise, ethics training video presentation, continued discussion of the Hanford Community Health Project, and agency updates. Agenda items are subject to change as priorities dictate.

For Further Information Contact: French Bell, Executive Secretary HHES, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE M/S E–54, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR(28737), fax 404/639–4699.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–605 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates: 8:30 a.m.–5:00 p.m., January 30, 2002; 8:30 a.m.–3:30 p.m., January 31, 2002.

Place: CDC, Koger Center, Williams Building, Conference Rooms 1802 and 1805, 2877 Brandywine Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters to be Discussed: The agenda will include updates from CDC, Food and Drug Administration and Centers for Medicare & Medicaid Services (formerly the Health Care Financing Administration), Unregulated Tests Workgroup report, waiver criteria, report on the Secretary's Advisory Committee on Genetic Testing, and manufacturer's pre-market clearance submission and good manufacturing practices.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Rhonda Whalen, Chief, Laboratory Practice Standards Branch, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop F–11, Atlanta, Georgia 30341–3724, telephone 770/488–8042, fax 770/488–8279.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–606 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health (NIOSH), Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: National Institute for Occupational Safety and Health (NIOSH), Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry.

Date and Time: 8 a.m.–5 p.m., February 12, 2002.

Place: Aljoya Conference Center of Laurelhurst, 3920 NE 41st Street, Seattle, WA, 98105–5428; Phone: 206–

268–7000. Web address: *http://www.aljoya.com/2ndtier.html.*

Status: Open to the public, limited only by space available. Seating will be limited to approximately 60 people. Due to limited conference space, notification of intent to attend the meeting must be made with Karen Tucker by no later than January 18, 2002. Ms. Tucker can be reached by telephone: 1–800–444–5234, ext 103 or by e-mail: *tucker@battelle.org.* Requests to attend will be accommodated on a first come basis.

Purpose: To request public assistance in identifying occupational hazards in the Health Services industry which NIOSH should target in a nationally representative survey called the National Exposures at Work Survey (NEWS). In addition, there will be a request for information about the procedures that could be used to gather information on specific health and safety hazards and practices from management and workers during the survey.

NIOSH's Surveillance Strategic Plan [1] calls for the conduct of a comprehensive, nationally representative hazard survey. To this end, NIOSH is planning to conduct the NEWS in a nationally representative sample of workplaces across all industries, starting with the Health Services industry. The purpose of the survey will be to collect data about exposures to occupational hazards and associated occupational groups, use of exposure controls, and management and employee health and safety practices. Prior to conducting the NEWS, a limited number of feasibility or pilot surveys will be necessary for evaluating tools and methods to be used in the NEWS. At this meeting, NIOSH will ask the attendees for their views on what specific hazards and occupational groups should be targeted in the NEWS, and how best to collect information from management and workers without significantly impacting normal business operations. NIOSH is seeking individual input from academicians, researchers, practitioners, government agencies, and others on addressing these topic areas.

Tracking Occupational Injuries, Illnesses and Hazards: The NIOSH Surveillance Strategic Plan. Department of Health and Human Services (NIOSH) Publication No. 2001–118.

For Further Information Contact Persons: James M. Boiano, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, Ohio 45226–1998, telephone 513–841–4246, fax 513–841–4489, e-mail *jboiano@cdc.gov.* Gregory M. Piacitelli, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone 513–841–4456, fax 513–841–4489, e-mail *gpiacitelli@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–604 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health, Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: National Institute for Occupational Safety and Health, Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry.

Date and Time: 8 a.m.–5 p.m., February 27, 2002.

Place: Mt. Washington Conference Center, 5801 Smith Avenue, Baltimore, MD, 21209; Phone: 410–578–7964. Web Address: *http://conference-center.stpaul.com.*

Status: Open to the public, limited only by space available. Seating will be limited to approximately 60 people. Due to limited conference space, notification of intent to attend the meeting must be made with Karen Tucker by no later than January 18, 2002. Ms. Tucker can be reached by telephone at 1–800–444–5234, ext 103 or by E-mail *tucker@battelle.org.* Requests to attend will be accommodated on a first come basis.

Purpose: To request public assistance in identifying occupational hazards in the Health Services industry which NIOSH should target in a nationally representative survey called the National Exposures at Work Survey (NEWS). In addition, there will be a request for information about the procedures that could be used to gather information on specific health and safety hazards and practices from management and workers during the survey.

NIOSH's Surveillance Strategic Plan calls for the conduct of a comprehensive, nationally representative hazard survey. To this end, NIOSH is planning to conduct the NEWS in a nationally representative sample of workplaces across all industries, starting with the Health Services industry. The purpose of the survey will be to collect data about exposures to occupational hazards and associated occupational groups, use of exposure controls, and management and employee health and safety practices. Prior to conducting the NEWS, a limited number of feasibility or pilot surveys will be necessary for evaluating tools and methods to be used in the NEWS. At this meeting, NIOSH will ask the attendees for their views on what specific hazards and occupational groups should be targeted in the NEWS, and how best to collect information from management and workers without significantly impacting normal business operations. NIOSH is seeking individual input from academicians, researchers, practitioners, government agencies, and others on addressing these topic areas.

Tracking Occupational Injuries, Illnesses and Hazards: The NIOSH Surveillance Strategic Plan. DHHS (NIOSH) Publication No. 2001–118.

For Further Information Contact: James M. Boiano, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone 513–841–4246, fax 513–841–4489, E-mail: *jboiano@cdc.gov.* Gregory M. Piacitelli, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone 513–841–4456, fax 513–841–4489, E-mail: *gpiacitelli@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–608 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Toxicology Models for Drug Evaluation.

Date: March 5, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Room 8049, Rockville, MD 20852, 301/594–9482.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 83.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–581 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Measurement of pO2 in Tissue In Vivo and In Vitro.

Date: January 25, 2002.

Time: 10 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter J. Wirth, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8021, Bethesda, MD 20892, 301/496–7565.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–582 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: January 11, 2002.

Time: 1 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, National Institute of Mental Health, DEA, National Institutes of Health, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1340, *rweise@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–583 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–52, Review of R13 Grants.

Date: January 10, 2002.

Time: 12 pm. to 2 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–38 Review of R13 Grants.

Date: January 16, 2002.

Time: 3 pm. to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Bldg., Conf. Rms. A&D, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–584 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Research Support and Animal Care Services''.

Date: January 24, 2002.

Time: 9:30 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: Hilton Towers Hotel, 20 West Baltimore Street, Baltimore, MD.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–585 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: January 22, 2002.

Time: 9 am. to 1 pm.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606 301–443–1513, *psherida@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–586 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 8, 2002.

Time: 12 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gloria B. Levin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, *leving@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 16, 2002.

Time: 3:30 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–587 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of Availability, Draft Environmental Assessment (DEA), Water System Improvements, Federal Riverdell Property, Duchesne and Uintah Counties, Utah.

SUMMARY: The Central Utah Project Completion Act Office proposes to rehabilitate and improve the water deliver system serving the Federal Riverdell property near Myton, Utah, to maintain and improve existing wetland habitats for fish and wildlife mitigation purposes. Three alternative concepts are evaluated, along with the No Action Alternative, without indicating a Proposed Action or preferred alternative. Public comment is invited on all alternatives. A Proposed Action will be developed based on environmental impacts and benefits of each alternative, costs, available funding, and public comments received.

One alternative would abandon the existing river diversion and canal delivery system and relocate the irrigation diversion downstream on the Duchesne River to a point nearer the property. Irrigation water would be delivered to the property from the new location by means of an electrically-powered pump and buried irrigation pipeline. Other features of this alternative include installing perforated drain pipe in a portion of the abandoned delivery canal to collect and redirect agricultural drainwater (that accumulates in and near the Riverdell Canal) through the Riverdell property and back to the Duchesne River.

In addition, a pair of rock sills would be constructed at a strategic location across the Duchesne River to divert high river flows into a remnant oxbow on the property, thereby recharging degraded wetlands formerly sustained by river flows. A second alternative evaluates a minimal cost option that abandons the existing diversion dam and canal, and relocates the point of diversion as in the first alternative. Irrigation water would be delivered to the property from the new location by means of an electrically powered pump and buried irrigation pipe. The third alternative would relocate the diversion point to an upstream location. A new diversion dam and buried pipeline would deliver water to the property by gravity flow along the existing canal alignment. Pumping of water would not be included in this alternative.

The public is invited to submit comments on the adequacy of the DEA and the assessment of environmental impacts. Comments received in response to this solicitation will be part of the public record and available for public review pursuant to the Freedom of Information Act (5 U.S.C. 552) and may be released to the public upon request. This will normally include names, addresses, and any other personal information provided with comments. Reviewers may request that personal information be withheld from such releases by so indicating in their letter of comment or by means of separate written communication.

DATES: The DEA will be available for public review and comment for a minimum of thirty (30) calendar days following the publication of this notice. The deadline for submittal of written comments on the DEA will be stated on the cover sheet of the document and noted in the transmittal letter to all reviewers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained by contacting Mr. Ralph G. Swanson, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo, UT 84606–6154, Telephone: (801) 379–1254, E-mail address: *rswanson@uc.usbr.gov*.

Dated: January 4, 2002.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 02–607 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Deadline for Submitting Completed Applications To Begin Participation in the Tribal Self-Governance Program in Fiscal Year 2003 or Calendar Year 2003

AGENCY: Office of Self-Governance, Interior.

ACTION: Notice of application deadline.

SUMMARY: In this notice, the Office of Self-Governance (OSG) establishes a March 1, 2002, deadline for tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in fiscal year 2003 or calendar year 2003.

DATES: Completed application packages must be received by the Director, Office of Self-Governance by March 1, 2002.

ADDRESSES: Application packages for inclusion in the applicant pool should be sent to the Director, Office of Self-Governance, U.S. Department of the Interior, Mail Stop 2548, 1849 C Street NW., Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, U.S. Department of the Interior, Office of Self-Governance, Mail Stop 2548, 1849 C Street NW., Washington DC 20240; Telephone 202–208–5734.

SUPPLEMENTARY INFORMATION: Under the Tribal Self-Governance Act of 1994 (Pub. L. 103–413), as amended by the Fiscal Year 1997 Omnibus Appropriations Bill (Pub. L. 104–208)

the Director, Office of Self-Governance may select up to 50 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into a written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the Bureau of Indian Affairs (BIA) agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe/consortium located in a region and/or agency which has not previously been involved with self-governance negotiations, will take approximately two months from start to finish. Agreements for an October 1 to September 30 fiscal year need to be signed and submitted by July 1. Agreements for a January 1 to December 31 fiscal year need to be signed and submitted by October 1.

Purpose of Notice

25 CFR parts 1000.10 to 1000.31 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in fiscal year 2003 and calendar year 2003. Applicants should be guided by the requirements in these subparts in preparing their applications. Copies of these subparts may be obtained from the information contact person identified in this notice.

Tribes/consortia wishing to be considered for participation in the tribal self-governance program in fiscal year 2003 or calendar year 2003 must respond to this notice, except for those which are (1) currently involved in negotiations with the Department; (2) one of the 80 tribal entities with signed agreements; or (3) one of the tribal entities already included in the applicant pool as of the date of this notice.

Dated: December 12, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–636 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–W8–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have requested renewal of scientific research and enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–051139

Applicant: Turner Endangered Species Fund, Cimarron, New Mexico.

The applicant requests a renewed permit to take black-footed ferrets (*Mustela nigripes*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–051140

Applicant: St. Louis Zoological Park, St. Louis, Missouri 63110.

The applicant requests a renewed permit to take Wyoming toads (*Bufo hemiophrys baxteri*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–049748

Applicant: Dr. Todd Crowl, Utah State University, Logan, Utah 84322.

The applicant requests a renewed permit to take razorback suckers (*Xyrauchen texanus*), Colorado pikeminnows (*Ptychocheilus lucius*), bonytail chub (*Gila elegans*), and June suckers (*Chasmistes liorus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Permit No. 047252

Applicant: Trent Miller, SWCA, Inc., Environmental Consultants, Westminister, Colorado 80031.

The applicant requests a renewed permit to take black-footed ferrets (*Mustela nigripes*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–045150

Applicant: Dr. William W. Hoback, University of Nebraska at Kearney, Kearney, Nebraska 68849.

The applicant requests a renewed permit to take American burying beetles (*Nicrophorus americanus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

DATES: Written comments on these requests for permits must be received February 11, 2002.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director—Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; telephone 303–236–7400, facsimile 303–236–0027.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone 303–236–7400.

Dated: December 20, 2001.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 02–603 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–670–5101–ER–B140; CACA–42662]

Notice of Availability of Final Environmental Impact Statement/ Environmental Impact Report and Proposed Amendments to the California Desert Conservation Area Plan and the Yuma District Resource Management Plan in Conjunction With the Proposed North Baja Pipeline Project

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement/ Environmental Impact Report and proposed amendments to the California Desert Conservation Area Plan (CDCA Plan) and the Yuma District Resource Management Plan in conjunction with the proposed North Baja Pipeline Project.

SUMMARY: This notice announces the availability of Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and proposed amendments to the California Desert Conservation Area Plan (CDCA Plan) and the Yuma District Resource Management Plan (Yuma RMP) in conjuction with the proposed North Baja Pipeline project. The proposed North Baja Pipeline project would provide natural gas supplies for new gas-fired electric power generation

serving the power grids in Baja California, Mexico and southern California, where there has been strong documented demand. The proposed North Baja Pipeline project extends from Ehrenberg, Arizona, through Riverside and Imperial Counties in California, south to the Mexican border. All federal lands affected by the proposed plan amendments are located in eastern Imperial County, California.

DATES: The Final EIS/EIR and proposed plan amendments will be available for public review and protest until February 10, 2002. Protests must be filed in accordance with the instructions described in the Supplemental Information section of this notice.

ADDRESSES: Director, Bureau of Land Management (WO–210, ms 1075LS), Attention: Brenda Hudgens-Williams, Protest Coordinator, 1620 L Street, NW, Washington, DC, 20236. Please send a copy of any protest along with all backup documentation to Lynda Kastoll, El Centro Field Office, 1661 South 4th St., El Centro, CA 92243.

FOR FURTHER INFORMATION CONTACT: For general information contact Lynda Kastoll, Project Manager, Bureau of Land Management El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243 (760) 337–4421.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission is the lead Federal agency on this project; BLM is a cooperating agency. The proposed amendment to the CDCA Plan would allow placement of pipeline outside of a designated utility corridor. The proposed Yuma RMP amendment would allow the placement of pipeline across portions of the Milpitas Wash Natural Area in which the RMP currently does not allow new utilities to be sited. A limited number of individual copies of the Final EIS/EIR and Plan Amendments may be obtained from BLM's El Centro Field Office. Copies are also available for inspection at the following locations:

(a). Public libraries in Blythe, Riverside and El Centro, California and in Yuma and Parker, Arizona

(b). Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, CA 95825

(c). Bureau of Land Management, El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243;

(d). Bureau of Land Management, Yuma Field Office, 2555 East Gila Ridge Road, Yuma, AZ 85365.

(e). Bureau of Land Management, California Desert District, 6221 Box Springs Boulevard, Riverside, California 92507.

(f). Federal Regulatory Energy Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426.

(g). California State Lands Commission, 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825–8202

In accordance with 43 CFR 1610.5–2, any person who participated in the planning process and believes they will be adversely affected by this plan amendment may protest the proposed amendment. The protest may raise only those issues which were submitted for the record during the planning process. The protest must be in writing and filed, on or before February 10, 2002, with the Director, Bureau of Land Management (WO–210, ms 1075LS), Attention: Brenda Hudgens-Williams, Protest Coordinator, 1620 L Street NW., Washington, DC, 20236. Please send a copy of any protest along with all backup documentation to Lynda Kastoll, El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243. In order to be considered complete, your protest must contain, at a minimum, the following information:

1. The name, mailing address, telephone number, and interest of the person filing the protest.

2. A statement of the issue or issues being protested.

3. A statement of the part or parts of the proposed plan amendment being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, maps, etc., included in the document.

4. A copy of all documents addressing the issue or issues that you submitted during the planning process or a reference to the date the issue or issues were addressed by you for the record.

5. A concise statement explaining why you believe the proposed plan amendment is wrong.

Dated: December 20, 2001.

J. Anthony Danna,

Acting State Director, California.

[FR Doc. 02–601 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[CA 668–02–1610–DO–083A]

Monument Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior; United States Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM) and United States Forest Service (USFS) announce a meeting of the Advisory Committee to the Santa Rosa and San Jacinto Mountains National Monument (hereinafter referred to as ''National Monument''). The meeting will be held on Monday, January 28, in the Hoover Room of the Education Center at the Living Desert, 47900 Portola Avenue, Palm Desert, California 92260. Meeting hours will be 8:30 a.m. until 4 p.m. The proposed agenda for the meeting will include a welcome and introductions followed by (1) an overview of the National Monument, (2) review of the National Monument advisory committee charter, (3) discussion of the guidelines and processes under which the advisory committee members will advise the BLM and USFS in the management and planning of the Monument, (4) election of committee chair and committee vice chairperson, (5) establishment of subsequent meeting schedule, and (6) a public question and answer period scheduled for 3 p.m.

The Monument Advisory Committee (MAC) is a committee of citizens appointed to provide advice to the BLM and USFS with respect to preparation and implementation of the management plan for the National Monument as required in the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (16 U.S.C. 431nt). The act authorized establishment of the MAC with representative members from State and local jurisdictions, the Agua Caliente Band of Cahuilla Indians, a natural science expert, local conservation organization, local developer or building organization, the Winter Park Authority and a representative from the Pinyon Community Council.

The meeting will be open to the public with attendance limited to space available. Individuals who plan to attend and need special assistance such as sign language interpretations or other

reasonable accommodations should notify the contact person listed below in advance of the meeting. Persons wishing to make statements should register with the BLM by noon at the meeting location. Speakers should address specific issues listed on the agenda and provide a written copy of their statement.

DATES: January 28, 2002; 8:30 a.m. to 4 p.m with public comment period beginning at 3 p.m.

ADDRESSES: The meeting will be held in the Hoover Room of the Education Center at the Living Desert, 47900 Portola Avenue, Palm Desert, California 92260.

FOR FURTHER INFORMATION CONTACT: Written comments should be sent to Mr. James G. Kenna—Field Manager, Palm Springs-South Coast Field Office, Bureau of Land Management, P.O. Box 581260, North Palm Springs, CA 92258; or by fax at (760) 251–4899 or by email at *cdunning@ca.blm.gov*. Information can be found on our webpage: *http://www.ca.blm.gov/palmsprings/*. Documents pertinent to this notice, including comments with the names and addresses of respondents, will be available for public review at the Palm Springs-South Coast Field Office located at 690 W. Garnet Avenue, North Palm Springs, California, during regular business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Santa Rosa and San Jacinto Mountains National Monument was established by act of Congress and signed into law on October 24, 2000. The National Monument was established in order to preserve the nationally significant biological, cultural, recreational, geological, educational and scientific values found in the Santa Rosa and San Jacinto Mountains. This legislation established the first monument to be jointly managed by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). The Santa Rosa and San Jacinto Mountains National Monument Act of 2000 affects only Federal lands and Federal interests located within the established boundaries.

The 272,000 acre Monument encompasses 86,400 acres of Bureau of Land Management lands, 64,400 acres of Forest Service lands, 23,000 acres of Agua Caliente Band of Cahuilla Indians lands, 8,500 acres of California Department of Parks and Recreation lands, 35,800 acres of other State of California agencies lands, and 53,900 acres of private land. The BLM and the Forest Service will jointly manage Federal lands in the National Monument in coordination with the Agua Caliente Band of Cahuilla Indians, other federal agencies, state agencies and local governments.

All committee and subcommittee meetings, including field examinations, will be open to the general public, including representatives of the news media. Any organization, association, or individual may file a statement with or appear before the committee and its subcommittees regarding topics on a meeting agenda—except that the chairperson or the designated federal official may require that presentations be reduced to writing and that copies be filed with the committee. Pursuant to the Federal Advisory Committee Act, meetings of the committee may be called only by the designated federal official, or his or her designee, after consultation with the committee chairperson. The Designated Federal Official required by the Federal Advisory Committee Act will be the Field Manager or District Ranger, or their designees, who will attend all meetings of the committee and any subcommittee thereof. Early and ongoing participation is encouraged and will help determine the future management of Federally managed public lands within the Santa Rosa and San Jacinto Mountains National Monument. Written comments will be accepted and considered throughout the entire planning process.

Dated: November 14, 2001.

Danella George,

Assistant Field Manager, Palm Springs-South Coast Field Office.

Douglas Pumphery,

District Ranger, Idyllwild Ranger District.

[FR Doc. 02–589 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 010084]

Public Land Order No. 7504; Partial Revocation of Public Land Order No. 1775; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order insofar as it affects 200 acres of National Forest System lands withdrawn for Panguitch Lake Administrative Site and Panguitch Lake Recreation Area. The withdrawal is no longer needed on the 200 acres. The lands will be opened to mining and to such forms of disposition as may by law be made of National Forest System lands.

EFFECTIVE DATE: February 11, 2002.

FOR FURTHER INFORMATION CONTACT: Lori Blickfeldt, Forest Service, Intermountain Region, 324–25th Street, Ogden, Utah 84401–2310, 801–625–5163.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 1775 is hereby revoked insofar as it affects the following described lands:

Dixie National Forest

Salt Lake Meridian

T. 36 S., R. 7 W.,
Sec. 4, NW¼SW¼;
Sec. 5, SW¼SE¼SE¼SW¼,
N½SE¼SE¼SW¼, NE¼SE¼SW¼,
N½NW¼SW¼SE¼,
NW¼NE¼SW¼SE¼, and NE¼SE¼;
Sec. 8, S½S½NW¼NE¼,
S½SE¼NE¼NW¼, W½NE¼NW¼,
E½NW¼NW¼, and SW¼NW¼.

The areas described aggregate 200 acres in Garfield County.

2. At 10 a.m. on February 11, 2002, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 15, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–591 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–030–1430; UTU 52740 and AZA 18464]

Public Land Order No. 7503; Revocation of Public Land Order Nos. 3469 and 4277, and the Bureau of Reclamation Order Dated March 14, 1957; Utah and Arizona

AGENCY: Bureau of land management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Public Land Orders, and one Bureau of Reclamation Order in their entirety as to the remaining 23,296 acres of lands withdrawn for the Bureau of Reclamation's Marble Canyon and Paria River Reservoir Projects. The projects have not been developed and the Bureau of Reclamation has requested the withdrawals be revoked. The lands are located within either the Paria Canyon-Vermilion Cliffs Wilderness or the Grand Staircase-Escalante National Monument and will be managed in accordance to the laws and regulations pertaining to the Wilderness and the Monument.

EFFECTIVE DATE: February 11, 2002.

FOR FURTHER INFORMATION CONTACT: Rhonda Flynn, BLM Utah State Office (UT–942), 324 South State Street, Salt Lake City, Utah 84111–2303, 801–539–4132. A copy of the orders being revoked is available from this location.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 3469, Public Land Order No. 4277, and Bureau of Reclamation Order dated March 14, 1957, are hereby revoked in their entirety as to the remaining lands withdrawn for the Marble Canyon and Paria River Reservoir Projects. The areas within the three orders aggregate approximately 23,296 acres in Kane and Coconino Counties.

2. The lands will be managed in accordance with the laws and regulations pertaining to the Paria Canyon-Vermilion Cliffs Wilderness and the Grand Staircase-Escalante National Monument.

Dated: October 2, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–592 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Application (SGA) H–1B Technical Skills Training Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; correction.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on December 14, 2001, concerning availability of grant funds for skills training programs for unemployed and employed workers. These grants are to be financed by user fees paid by employers to bring foreign workers into the U.S. under a new H–1B nonimmigrant visa or at visa renewal. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Ella Freeman, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879.

Correction

The **Federal Register** of December 14, 2001, in FR Doc. 01–30922, on page 64859, at the bottom of the second column and top of the third column, correct the **DATES** caption to read:

DATES: Applications for grant awards will be accepted commencing immediately. The closing date for receipt of applications shall be February 19, 2002 at 4 p.m. (Eastern Time) at the address listed.

Signed at Washington, DC, this 7th day of January, 2002.

James W. Stockton,

Grant Officer.

[FR Doc. 02–621 Filed 1–9–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Aracoma Coal Company

[Docket No. M–2001–106–C]

Aracoma Coal Company, P.O. Box 470, Stollings, West Virginia 25646 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Aracoma Alma Mine No. 1 (I.D. No. 46–08801) located in Logan County, West Virginia. The petitioner proposes to use a properly rated vacuum contactor for undervoltage circuit protection; to use a properly rated vacuum contactor for grounded phase circuit protection; to use a neutral grounding resister not more than 15 amperes for 480-volt circuit ground-fault current; to use a properly rated circuit breaker for a short circuit and/or over-current circuit protection; and conduct monthly examinations on each circuit to check for proper operation of the vacuum contactor and actuated undervoltage and grounded phase trip devices to ensure proper circuit operation. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Ohio Coal Company

[Docket No. M–2001–107–C]

Ohio County Coal Company, 19050 Highway 1078 South, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Freedom Mine (I.D. No. 15–17587) located in Henderson County, Kentucky. The petitioner proposes to mine through oil and gas well bores located within an approved mining area using the specific procedures outlined in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Addington, Inc.

[Docket No. M–2001–108–C]

Addington, Inc., 8616 Long Branch Road, Hatfield, Kentucky 41514 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Pond Creek Mine No. 1 (I.D. No. 15–17287) located in Pike County, Kentucky. The petitioner proposes to use a spring-loaded locking device instead of a padlock on mobile battery-powered equipment to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''*comments@msha.gov*,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 11, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 31st day of December 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–619 Filed 1–9–02; 8:45 am]

BILLING CODE 4510–43–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25355, 812–12102]

The Charles Schwab Family of Funds, et. al; Notice of Application

January 4, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility. The requested order also would amend a condition of a prior order (''Order'').[1]

APPLICANTS: The Charles Schwab Family of Funds, Schwab Investments, Schwab Capital Trust, Schwab Annuity Portfolios (each a ''Trust'' and together the ''Trusts'') for and on behalf of each of their series now or hereafter existing (the ''Schwab Funds''), Charles Schwab Investment Management, Inc. (''CSIM''), and any other existing or future registered open-end management investment company or series thereof that is advised or sub-advised by CSIM or a person controlling, controlled by, or under common control with CSIM and that is part of the ''same group of investment companies'' as the Schwab Funds (together with the Schwab Funds, the ''Funds'').

FILING DATES: The application was filed on May 17, 2000 and amended on January 3, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 29, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Applicants, 101 Montgomery Street, 101KNY–14, San Francisco, California 94104.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each of the Trusts is registered under the Act as an open-end management investment company and organized as a Massachusetts business trust.[2] CSIM is registered under the Investment Advisers Act of 1940 and serves as investment adviser for each of the Funds.

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term investments. Under a prior order, the Funds can pool their uninvested daily cash balances into joint accounts (''Joint Accounts'') that invest in repurchase agreements and other money market instruments.[3] Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests or to cover unanticipated cash shortfalls such as a trade ''fail,'' in which cash payment for a security a Fund has sold has been delayed.

3. If a Fund were to draw down on its line of credit or incur an overdraft with its custodian bank, the Fund would pay interest on the borrowed cash at a rate which would be significantly higher than the rate that other non-borrowing Funds would earn on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit. Other bank loan arrangements, such as committed lines of credit, would require the Funds to pay substantial commitment fees in addition to the interest rate to be paid by the borrowing Fund.

4. Applicants request an order that would permit the Funds to enter into interfund lending agreements (''Interfund Lending Agreements'') under which the Funds would lend and borrow money for temporary purposes directly to and from each other through a credit facility (''Interfund Loan''). Applicants state that the proposed credit facility would reduce the Funds' borrowing costs and enhance their ability to earn higher rates of interest on investment of their short-term cash balances. Although the proposed credit facility would reduce the Funds' need to borrow from banks, the Funds would be free to establish committed lines of credit or other borrowing arrangements with banks. The Funds also would continue to maintain any overdraft protection currently provided by the custodian bank and their uncommitted lines of credit with various banks.

5. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed expected volumes and the Fund has insufficient

[1] *The Charles Schwab Family of Funds, et al.,* Investment Company Act Release Nos. 24067 (October 1, 1999) (notice) and 24113 (October 27, 1999) (order).

[2] Each existing Fund that currently intends to rely on the requested order is named as an applicant. Any Fund that relies on the requested relief in the future will do so only in compliance with the terms and conditions of the application.

[3] The Charles Schwab Family of Funds, et al., Investment Company Act Release No. 23679 (February 4, 1999) (notice) and 23723 (March 3, 1999) (order).

cash to satisfy redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the credit facility when a sale of securities ''fails'' due to circumstances such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may present a cash shortfall if the Fund has purchased securities using the proceeds from the securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions and sales fails, under the proposed credit facility a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements. Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

8. The interest rate charged to the Funds on any Interfund Loan (''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate for any day would be the highest rate available to the Funds from investing in overnight repurchase agreements, either directly or through a Joint Account (''Repo Rate''). The Bank Loan Rate for any day would be calculated by CSIM each day an interfund loan is made according to a formula established by the Board of Trustees of each Trust (''Board'') designed to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (e.g., Federal Funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. Each Fund's Board periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Board.

9. The credit facility would be administered by employees of CSIM, including representatives of the Fund Administration and Financial Analysis Department and/or representatives of the Portfolio Management and Research Department, who are not portfolio managers (''Interfund Lending Team''). Under the proposed credit facility, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. The Interfund Lending Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Applicants expect far more available uninvested cash each day than borrowing demand. Once it determines the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Team would allocate loans among borrowing Funds without any further communication from portfolio managers. After allocating cash for Interfund Loans, CSIM would invest any remaining cash in accordance with the standing instructions of portfolio managers or return remaining amounts for investment to the Funds. Any money market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions.

10. The Interfund Lending Team would allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of Funds necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Board, including a majority of trustees who are not ''interested persons'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure both borrowing and lending Funds participate on an equitable basis.

11. CSIM would (i) monitor the interest rates charged and other terms and conditions of the Interfund Loans, (ii) ensure compliance with each Fund's investment policies and limitations, (iii) ensure equitable treatment of each Fund, and (iv) make quarterly reports to the Board concerning any transactions by the Funds under the credit facility and the Interfund Loan Rates.

12. CSIM would administer the credit facility as part of its duties under its existing advisory contract with each Fund and would receive no additional fee as compensation for its services. CSIM may, however, collect reimbursement for standard pricing, recordkeeping, bookkeeping and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the credit facility. Fees would be no higher than those applicable for comparable bank loan transactions.

13. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents. The statement of additional information of each Fund discloses the individual borrowing and lending limitations of the Fund. Each Fund will notify shareholders of its intended participation in the proposed credit facility prior to relying on any relief granted pursuant to the application. The statement of additional information of each Fund participating in the interfund lending arrangements will disclose all material information about the credit facility.

14. In connection with the credit facility, applicants request an order under section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act; and under section 17(d) and rule 17d–1 under the Act to permit certain joint arrangements.

15. Applicants state that certain Funds and other registered open-end investment companies operate in reliance on the Order. Applicants state that one of the conditions of the Order is that Underlying Funds, as defined in the Order, cannot acquire securities of any other investment company in excess

of the limits contained in section 12(d)(1) of the Act. Applicants request that if the requested relief is granted, this condition be amended to permit the Underlying Funds to engage in interfund borrowing and lending transactions.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having CSIM as their common investment advisor.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because: (a) CSIM would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that the Funds otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through a Joint Account; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Funds would receive interest at a rate higher than they could obtain through such other investments; and (e) the borrowing Funds would pay interest at a rate lower than otherwise available to them under their bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the credit facility does not involve these abuses. Applicants note that there will be no duplicative costs or fees to any Fund or its shareholders, and that CSIM will receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank; provided, that immediately after any such borrowing, there is an asset coverage of at least 300 per cent for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transactions in which the company participates unless the transaction is approved by the Commission. Rule 17d–1 provides that in passing upon applications for relief under section 17(d), the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to the insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms that are no different from or less advantageous than that of other participating Funds.

10. Applicants also request relief under section 12(d)(1)(J) of the Act for

an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act to the extent necessary to amend the Order. Applicants submit that the Order should be modified solely to the extent necessary to allow an Underlying Fund to engage in interfund borrowing and lending transactions. Applicants believe that the proposed relief satisfies the standards of sections 12(d)(1)(J), 6(c) and 17(b). Applicants state that there will be no duplicative costs or fees to any of the Funds or their shareholders, and that such participation will not create any of the abuses to which section 12(d)(1)(A) is addressed.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The interest rates to be charged to the Funds under the credit facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, CSIM will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) more favorable to the lending Fund than the Repo Rate, and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to collateral, if any) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowing from all sources immediately after the interfund borrowing total less than 10% its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be 10% or greater of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source if its total borrowings immediately after the interfund borrowing would exceed the limits in section 18 of the Act.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to equal or exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans equals or exceeds 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to less than 10% of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to equal or exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings equal or exceed 10% is repaid, or the Fund's total outstanding borrowings cease to equal or exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge additional collateral as necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of the lending Fund's current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. Except as set forth in this condition, no Fund may borrow through the credit facility unless the Fund has a policy that prevents the Fund from borrowing for other than temporary or emergency purposes. In the case of a Fund that does not have such a policy, the Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Interfund Lending Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Interfund Lending Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. CSIM will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the Funds.

13. CSIM will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will report to the Boards quarterly concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit thereunder.

14. Each Trust's Board, including a majority of the Independent Trustees: (a) will review no less frequently than quarterly each Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, approve any modifications thereto, and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will

review no less frequently than annually the continuing appropriateness of each Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand of payment under the provisions of the Interfund Lending Agreement, CSIM will promptly refer the loan for arbitration to an independent arbitrator selected by the Boards of the Funds involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[4] The arbitrator will resolve any problems promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit at least annually a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and other information presented to the Boards in connection with the review required by conditions 13 and 14.

17. CSIM will prepare and submit to the Boards for review, an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, CSIM will report on the operations of the credit facility at each Board's quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates CSIM's assertions that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the Application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Boards; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its statement of additional information all material facts about its intended participation.

Applicants also agree that condition number 12 to the Order will be modified to read as follows:

No Underlying Fund will acquire securities of any other investment company in excess of the limits set forth in Section 12(d)(1)(A) of the 1940 Act, except to the extent that the Underlying Fund has obtained exemptive relief from the Commission permitting it to (a) purchase shares of an affiliated money market fund for short-term cash management purposes; or (b) engage in interfund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[4] If the dispute involves Funds with separate Boards, the Trustees of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45235; File No. SR–Amex–2001–100]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to the Initial and Annual Listing Fees, Fees for Listing Additional Shares and the One-Time Charge for Listing Shares Issued in Connection With Acquisition of a Listed Company by an Unlisted Company

January 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on December 26, 2001.[3] The Exchange filed Amendment No. 2 to the proposed rule change on December 26, 2001.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 140, 141, 142, 144 and 341 of the Amex *Company Guide* relating to the Exchange issuer initial listing fee,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael J. Ryan, Executive Vice President and General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 13, 2001 (''Amendment No. 1''). In Amendment No. 1, the Amex requested that Commission grant accelerated approval to the proposed rule change.

[4] *See* letter from Michael J. Ryan, Executive Vice President and General Counsel, Amex, to Marc McKayle, Special Counsel, Division, Commission, dated December 20, 2001 (''Amendment No. 2''). In Amendment No. 2, the Amex stated that it seeks to implement the revised Annual Fee schedule under Section 141 as of January 1, 2002 and the revisions to Sections 140, 142, 144 and 341 upon Commission approval. In addition, the Amex made a minor correction to the proposed rule change, clarified that it will not reimburse part of the annual fee paid under Section 141 to issuers whose securities are removed from listing and registration for the portion of the year remaining after the date of removal, and added additional reasons for amending the Refund of Listing Fees under Section 144.

annual fee, the fee for listing additional shares.

The text of the proposed rule change appears below. New text is in *italics;* deleted text is in [brackets].

Sec. 140. Original Listing Fees

STOCK ISSUES

Less than 5,000,000 shares	*$30,000*
5,000, 000 to 10,000,000 shares	*40,000*
10,000,001 to 15,000,000 shares	*50,000*
In excess of 15,000,000 shares	*60,000*

ISSUES LISTED UNDER § 106 (CURRENCY AND INDEX WARRANTS) AND § 107 (OTHER SECURITIES)

Less than 1,000,000 shares	$5,000
1,000,000 to 2,000,000 shares	10,000
2,000,001 to 3,000,000 shares	15,000
3,000,001 to 4,000,000 shares	17,500
4,000,001 to 5,000,000 shares	20,000
5,000,001 to 6,000,000 shares	22,500
6,000,001 to 7,000,000 shares	25,000
7,000,001 to 8,000,000 shares	27,500
8,000,001 to 9,000,000 shares	30,000
9,000,001 to 10,000,000 shares	32,500
10,000,001 to 15,000,000 shares	37,500
In excess of 15,000,000 shares	45,000

In addition to the above per-share fee, there is one-time *application processing fee* [charge] of $5,000 for companies that do not have a stock or warrant issue listed on the Exchange. (The one-time [charge] *application processing fee* of $5,000 does not apply to any company which previously paid the one-time [charge] *fee* in connection with the listing of a debt issue.)

In the case of non-U.S. companies listed on foreign stock exchanges, the fee, including the one-time charge, will be 50% of the rates set forth above, with a maximum fee of $[25,000] *32,500.* Where the original listing of more than one class of stock is included in the same application, the fee is based on the aggregate number of shares of all such classes.

Warrants—The original (as well as the annual and additional) listing fees for warrant issues are the same as those for stock issues.

Bonds—$100 per $1 million principal amount (or fraction thereof) with a minimum fee of $5,000 and a maximum fee of $10,000. In the case of an issuer listing more than one outstanding publicly traded debt security, the fee will be based on the aggregate principal amount of all of such issues provided they are included within a single application.

In addition, there is one-time *application processing fee* [charge] of $5,000 for companies that do not have an issue of securities listed on the Exchange.

Index Fund Shares and Trust Issued Receipts—The original listing fee for Index Fund Shares listed under Rule 1000A and Trust Issued Receipts listed under Rule 1200 is $5,000 for each series, with no application processing fee.

Special Shareholders Rights Plans—Upon the shareholder rights becoming exercisable and tradable separately.

- An original fee will be charged based on the number of shareholder rights then outstanding and on additional issuance of rights;
- Shareholder rights will be subject to the Exchange's continuing annual fee schedule.

Sec. 141. Annual Fees

STOCK ISSUES AND ISSUES LISTED UNDER § 106 AND § 197 AND RULE 1200 (TRUST ISSUED RECEIPTS)

Shares outstanding	Fee
5,000,000 shares or less (minimum)	*$15,000*
5,000,001 to 10,000,000 shares	*17,500*
10,000,001 to 25,000,000 shares	*20,000*
25,000,001 to 50,000,000 shares	*22,500*
In excess of 50,000,000 shares (maximum)	*30,000*

ISSUED LISTED UNDER RULE 1000A (INDEX FUND SHARES)

Shares outstanding	Fee
1,000,000 shares or less shares (minimum)	$6,500
1,000,001 to 2,000,000 shares	7,000
2,000,001 to 3,000,000 shares	7,500
3,000,001 to 4,000,000 shares	8,000
4,000,001 to 5,000,000 shares	8,500
5,000,001 to 6,000,000 shares	9,000
6,000,001 to 7,000,000 shares	9,500
7,000,001 to 8,000,000 shares	10,000
8,000,001 to 9,000,000 shares	10,500
9,000,001 to 10,000,000 shares	11,000
10,000,001 to 11,000,000 shares	11,500
11,000,001 to 12,000,000 shares	12,000
12,000,001 to 13,000,000 shares	12,500
13,000,001 to 14,000,000[5] shares	13,000
14,000,001 to 15,000,000 shares	13,500
15,000,001 to 16,000,000 shares	14,000
In excess of 16,000,000 shares (maximum)	14,500

[5] The Commission notes that in the Exchange's initial proposal, it stated ''13,000,001 to 14,000,001.'' In fact, the Exchange intended to state ''13,000,000 to 14,000,000'' shares. The Commission has made this technical change in anticipation of the Exchange filing an amendment with the Commission that makes this correction. Telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and Christopher Solgan, Law Clerk, Division, Commission, on January 3, 2002.

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable within 30 days of the date the company receives the invoice, based on the total number of outstanding shares of all classes of stock at the time of original listing.

The annual fee for issues listed under Rule 1000A (Index Fund Shares) and Rule 1200 (Trust Issued Receipts) is based upon the number of shares of a series of Index Fund Shares or Trust Issued Receipts outstanding at the end of each calendar year. For multiple series of Index Fund Shares issued by an open-end management investment company, or for multiple series of Trust Issued Receipts, the annual listing fee is based on the aggregate number of shares in all series outstanding at the end of each calendar year.

Bond Issues—There is an annual fee of $3,500 for listed bonds and debentures of companies whose equity securities are not listed on the Exchange. The annual fee is payable in January of each year. In the year in which a company lists, the fee will be prorated to reflect only that portion of the year during which the security was admitted to dealings and will be payable in December.

Note: In all cases, if after payment on full of the annual fee for any year, all of the issuer's securities are removed from listing and registration, the Exchange will *not* reimburse that part of the annual fee applicable to the portion of the year remaining after the date of suspension from dealings.

Sec. 142. Additional Listing Fees

(a) Previously Listed Equity Issues—Listing of additional shares subsequent to original listing—2¢ per share subject to a minimum fee of $2,000 (100,000 shares or less) and a maximum fee of [$17,500 (875,000 shares or more)] *$22,500 (1,125,000 shares or more)* per application.

The annual maximum fee per company for listing additional shares shall be $45,000. (The above fees for listing of additional shares also apply to companies whose securities are admitted to unlisted trading privileges.)

(b) Previously Listed Debt Issues—Listing of additional bonds subsequent to original listing—$150 per $1 million principal amount (or fraction thereof) with a minimum fee of $1,000 and a maximum fee of $12,000.

(c) Different Class—The schedule for original listing (§ 140) is applicable to the listing of securities of an issue, class or series not previously listed.

(d) Substitution Listing—In cases where, after original listing, a change is effected by charter amendment or otherwise, under which shares listed upon the Exchange are reclassified or changed into or exchanged for another security, either with or without a change in par value, the fee for the listing of such number of ''new'' substituted shares (to the extent not in excess of the amount previously listed) is [$2,500] *$5,000.* The full additional listing fee is charged (see paragraph (a) above) for all shares included in the application in excess of the amount previously listed. The maximum fee for the aggregate of all such ''new'' substituted shares and excess shares is [$20,000] *$27,500.* In the case of an application for the substitution listing of bonds or warrants upon their assumption by a new obligor or issuer, the listing fee will be $500.

(e) Reincorporation, Merger or Consolidation—If a listed company reincorporates, or merges with or consolidates into one or more corporations, the substitution listing fee (paragraph (d) above) may be applicable. (See also § 341 for the appropriate fee to be paid in connection with the acquisition of a listed company by an unlisted company.)

Sec. 144. Refunds of Listing Fees

(a) Applications Withdrawn or Not Approved—If a listing application is not approved by the Exchange or is withdrawn by the applicant, a service charge of [$1,000] *$1,500* is deducted by the Exchange from the [listing] *application processing* fee previously paid by the applicant, and the balance is refunded to it.

(b) Credits After Approval—No cash refund of a listing fee is made where an application has been finally approved by the Exchange. If additional unissued shares are authorized for addition to the list ''upon official notice of issuance'' and all of such shares are not issued for the purpose specified in the application, a credit is allowed. The credit may be applied in full or partial payment of fees payable for future listing applications of the same company. The amount of the credit is the difference between the fee paid for the listing of such authorized shares and the fee which would have applied had the application been initially submitted for the number of shares, which were actually issued and added to the list under the same listing authorization. If a company cancels all listing authorization pursuant to any single application (see section 350), without the issuance of any such shares, the Exchange makes a minimum charge of [$1,000] *$1,500.*

Sec. 341. Acquisition of a Listed Company by an Unlisted Company

The policy set forth below relates to any plan of acquisition, merger or consolidation, the net effect of which is that a listed company is acquired by an unlisted company even though the listed company is the nominal survivor. In applying this policy, consideration will be given to all relevant factors, including the proportionate amount of the securities of the resulting company to be issued to each of the combining companies, changes in ownership or management of the listed company, whether the unlisted company is larger than the listed company, and the nature of the businesses being combined. In evaluating the listing eligibility of the surviving company, the Exchange will apply its original listing guidelines. See section 713(b).

The Exchange recommends that any proposed plan of the above nature, including particularly any plan under which shareholders of the listed company would own less than 50% of the shares or voting power of the resulting company, be submitted for an informal opinion before its promulgation.

In addition to the applicable per share fee for additional listings, there is a one-time charge of [$7,500] *$10,000* for such listings.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

The Exchange proposes to amend Sections 140, 141, 142, 144 and 341 of the Amex *Company Guide* to modify initial and annual listing fees, fees for listing additional shares and the one-time charge for listing shares issued in connection with acquisition of a listed company by an unlisted company, as discussed below. The Exchange believes these fees changes are necessary to adequately fund the Exchange listed equities business and development of value-added services for Amex listed issuers.

a. Original Listing Fees (Section 140)

Currently, original listing fees range from $5,000 to $45,000 depending on the number of shares to be listed. The Exchange proposes to increase the original listing fees for stock issues, excluding securities listed under Sections 106 (Currency and Index Warrants) and 107 (Other Securities) of the *Company Guide,* and to reduce the number of tiers from twelve to four tiers as follows:

Less than 5,000,000 shares	$30,000
5,000,000 to 10,000,000 shares	40,000
10,000,001 to 15,000,000 shares ...	50,000
In excess of 15,000,000 shares	60,000

The Exchange states that in order to continue to foster listing of structured equity derivative securities (*e.g.,* MITTs, SUNs, Equity Linked Notes), the listing fee for issues listed under Section 106 (Currency and Index Warrants) and section 107 (Other Securities) will remain unchanged from the current original listing fee schedule.

Currently, according to the Exchange, issuers also pay a one time-charge of $5,000 if they do not already have a stock or warrant issue listed on the Exchange. The one time $5,000 fee would be designated as an application processing fee, reflecting its true nature and purpose. For non-U.S. companies, the original listing fee would continue to be 50% of the above rates, with a maximum of $32,500 (including a $2,500 processing fee).

The original listing fee for Index Fund Shares (*e.g.,* iShares, VIPERs) listed under Rule 1000A and Trust Issued Receipts (*e.g.,* HOLDRs) listed under Rule 1200 is $5000 for each series, with no application processing fee.

b. Annual Fees (Section 141)

According to the Exchange, annual fees under Section 141 currently range from $6,500 to $14,500. The Exchange

proposes to increase annual fees for stock issues and for issues listed under sections 106 and 107 as described below, with the number of tiers reduced from 17 to 5:

5,000,000 shares or less (minimum)	$15,000
5,000,001 to 10,000,000 shares	17,500
10,000,001 to 25,000,000 shares	20,000
25,000,001 to 50,000,000 shares	22,500
In excess of 50,000,000 shares maximum	30,000

The Exchange states that Index Fund Shares would continue to be subject to current annual fee schedule. In addition, the Exchange proposes to codify an existing procedure in section 141 to provide that the annual fee for Index Fund Shares and Trust Issued Receipts is based on the number of shares of a series outstanding at year-end, with multiple series aggregated for purposes of the fee calculation.[6]

If an issuer's securities are removed from Exchange listing, the Exchange currently reimburses the issuer for part of any previously paid annual fee applicable to the portion of the year remaining after the date of suspension from dealings. The Exchange proposes that it would no longer make such reimbursement.

c. Additional Listing Fees (Section 142)

According to the Exchange, the fee for listing additional shares is 2 cents per share subject to a minimum of $2,000 (for 100,000 shares or less) and a maximum of $17,500 (for 875,000 shares or more) per application. The minimum fee would continue to be $2,000 for issues of up to 100,000 shares. For issues over 100,000 shares, the Exchange proposes to increase the maximum fee per company to $22,500 for issues of 1,125,000 shares or more. In addition, the Exchange proposes a maximum fee per company in any one year for listing additional shares of $45,000.

The Exchange states that section 142(a) would also be amended to make clear that Section 142 fees apply to Amex securities admitted to unlisted trading privileges (*i.e.* the relatively few Amex-traded issues grandfathered under section 12 of the Act[7] and not required to execute a listing agreement with the Exchange), comparable to the provision in section 141 for annual fees.

The Exchange proposes to amend section 142(d) (''Substitution Listing'') by raising the fee for listing of new substituted shares from $2,500 to $5,000, and raising the maximum fee for substituted shares and excess shares from $20,000 to $27,500 per quarter, (corresponding to the sum of the proposed $5,000 increase in maximum fees for listing additional shares under section 142(a) and the $2,500 fee increase for listing new substituted shares).

d. Refund of Listing Fees (Section 144)

Currently, under section 144, if an applicant withdraws its application or the application is not approved, the Exchange deducts a $1,000 service charge and refunds $4,000 from the application processing fee to the applicant. The Exchange proposes to increase this service charge to $1,500. In addition the Exchange proposes to increase the minimum charge if an issuer cancels a listing authorization without issuing such authorized shares from $1,000 to $1,500. As with the other proposed fee changes in this filing, the Exchange states that it is increasing these charges to better reflect increased Exchange costs associated with reviewing and processing such applications.

e. Acquisition of a Listed Company by an Unlisted Company (Section 341)

The Exchange proposes to amend section 341 to increase the one-time charge imposed in connection with acquisition of a listed company by an unlisted company from $7,500 to $10,000.

(2) Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[8] in general and furthers the objectives of section 6(b)(4) of the Act,[9] in particular, because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–100 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–632 Filed 1–9–02; 8:45 am]

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[6] Portfolio Depository Receipts (*i.e.,* SPDRs, MidCap SPDRs, DIAMONDS, Nasdaq 100 Index Tracking Stock) are not subject to annual or additional listing fees.

[7] 15 U.S.C. 78*l*.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45234; File No. SR–AMEX–2001–109]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Pilot Program Eliminating Position and Exercise Limits for Certain Broad Based Index Options

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act),'' [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2001, the American Stock Exchange LLC (''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act [3] which renders the proposal effective upon receipt of this filing by the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks a six-month extension of the pilot program that provides for the elimination of position and exercise limits for the Major Market (''XMI'') and Institutional (''XII'') broad-based index options, as well as FLEX Options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 1, 1999, The Commission approved the elimination of position and exercise limits for the XMI and XII index options, as well as FLEX options on these indexes on a two-year basis (the ''Pilot Program'').[5] The Pilot Program originally ended on February 1, 2001 with an extension for six months approved on July 3, 2001.[6] The purpose of this proposed rule change is to request a six-month extension of the Pilot Program.[7]

The Original Approval Order required the Exchange to submit a report to the Commission regarding the status of the Pilot Program so that the Commission could use this information to evaluate any effects of the program.[8] The Exchange submitted the required report to the Commission on May 22, 2001 in connection with the first six-month extension of the Pilot Program. The report indicated that from February 1, 1999 through March 30, 2001, no customer and/or firm accounts reached a level of 100,000 or more options contracts in XMI or XII options. The Amex during the review period and the extended pilot program did not discover any instances where an account maintained an unusually large unhedged position. Accordingly, because the Exchange has not experienced any aberrations due to the large unhedged positions during the operation of the Pilot Program, it requests that the effectiveness of the Pilot Program be extended for an additional six months until July 3, 2002.

2. Basis

The proposed rule change is consistent with section 6(b) of the Act [9] in general and furthers the objects of section 6(b)(5) [10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become immediately effective pursuant to section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder [12] because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not, by its terms, become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.

The Exchange has requested that the Commission accelerate the operative date of the proposal. In addition, the Exchange provided the Commission with notice of its intent to file the proposed rule change, along with a brief description and text of the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] 17 CFR 240.19b–4(f)(6).

[4] The Exchange has represented that the proposed rule change: (i) Will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4 under the Act. *id*.

[5] *See* Securities Exchange Act Release No. 41011, 64 FR 6405 (February 9, 1999) (''Original Approval Order'').

[6] *See* Securities Exchange Act Release No. 44507, 66 FR 36348 (July 11, 2001).

[7] By separate filing, the Exchange intends to seek permanent approval by the Commission of the Pilot Program.

[8] The Commission requests that the Amex update the Commission on any problems that have developed with the pilot since the last extension, including any compliance issues, and whether there have been any large unhedged positions that have raised concerns for the Amex. In addition, the Commission expects that the Amex will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop. *See also* Original Approval Order.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

rule change, more than five business days prior to the date of the filing of the proposed rule change.

The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become operative on January 4, 2002.[13] Acceleration of the operative date will allow the Exchange to continue its Pilot Program without interruption. Further the Commission has approved a similar pilot program proposed by another options exchange.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all, written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–2001–109 and should be submitted by January 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

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[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] *See* Securities Exchanges Act Release No. 44335 (May 22, 2001), 66 FR 29369 (May 30, 2001) (SR–CBOE–2001–26).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45236; File No. SR–Amex–2001–42]

Self-Regulatory Organizations; Notice of Proposed Rule Change by American Stock Exchange LLC To Increase Position and Exercise Limits for Nasdaq-100 Index Tracking Stock Options

January 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2001, the American Stock Exchange LLC (the ''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 26, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3]

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposed to increase position and exercise limits for Nasdaq-100 Index Tracking Stock (''QQQ'') options to 300,000 contracts on the same side of the market. In order to codify the financial requirements imposed by the Exchange and the Commission, the Amex also proposes to add Commentary .11 to Exchange Rule 904.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 supersedes and replaces the original 19b–4 filing in its entirety.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to increase position and exercise limits for QQQ options up to 300,000 contracts on the same side of the market. The Exchange will continue to require that member organizations report all QQQ options positions exceeding 200 contracts pursuant to Exchange Rule 906. Moreover, for accounts holding positions in excess of 10,000 contracts on the same side of the market, the Exchange will also continue to require information concerning the extent to which such positions are hedged. The Amex believes that increasing position and exercise limits from 75,000 to 300,000 contracts for QQQ options will provide greater flexibility for market participants attempting to hedge their market risks.[4] In addition, Exchange staff will be able to re-focus efforts and resources to other notable areas.

Manipulation

Position limits restrict the number of options contracts that an investor, or a group of investors acting in concert, may own or control. Similarly, exercise limits prohibit the exercise of more than specified a number of contracts on a particular instrument within five (5) business days. The Commission by imposing these limits on exchange-traded options has sought to: (1) Minimize the potential for mini-manipulations,[5] as well as other forms of market manipulations; (2) impose a ceiling on the position that investor with inside corporate or market information can establish; and (3) reduce the possibility of disruption in the options and underlying cash markets.[6] The Amex believes that the structure of the QQQ option and the tremendous liquidity of both the underlying cash and option market for QQQs should allay regulatory concerns of potential manipulation. The Amex further believes that QQQ options are not readily susceptible to manipulation based largely on the liquidity and

[4] Although the current position limit is 75,000 contracts, due to a 50% reduction in the value of the underlying QQQ on March 20, 2000, the limit was adjusted to 150,000.

[5] Mini-manipulation is an attempt to influence, over a relatively small range, the price movement in a stock to benefit a previously established options position.

[6] *See* Becker and Burns, Regulation of Exchange-Traded Options in *The Handbook of Derivatives and Synthetics* (1994), Probus Publishing Company and Regulating the Options Market, *Institutional Investor Forum* (November 1991).

activity of the underlying QQQ as well as the securities comprising the QQQ. Therefore, the Exchange submits that increasing position and exercise limits to 300,000 contracts may generate greater order flow for the Amex and provide members with greater flexibility in fulfilling their obligations to customers and the market.

Although the QQQ options is not itself an index option product, it nonetheless is designed to closely track the price and yield performance of the Nasdq-100 index.[7] Therefore, we believe that in evaluating this proposal to increase position and exercise limits for QQQ options, the Commission should apply an analysis similar to what was used in connection with broad-based index options.[8]

The Amex believes in connection with QQQ options that the restrictive position and exercise limits no longer serve their stated purpose. The Commission has stated that:

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member of customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for concerns or squeezes of the underlying market. In addition such limits such to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[9]

The Exchange believes that both the size and breadth of the market for QQQs dispels concerns regarding market manipulation and disruption. The average daily trading volumes for the QQQs and QQQ options from January 1, 2001 to November 30, 2001 were 71.21 million shares and 148,181 contracts, respectively. the QQQ option is by far the most actively-traded option product in the U.S., and therefore, the most liquid. The underlying QQQ is the most actively-traded equity security in the U.S. with greater trading volume than both Microsoft and Intel.[10] Accordingly, the Exchange believes that the tremendous liquidity of the QQQ option and the underlying cash market for QQQs severly minimizes the potential for manipulations in both the options and underlying cash market.

To date, there has not been a single disciplinary action involving manipulation or potential manipulation in the QQQ or the QQQ option on the Exchange. We further believe that our extensive experience conducting surveillance of derivative products and program trading activity is sufficient to identify improper activity. Routine oversight inspections of Amex's regulatory programs by the Commission have not uncovered any inconsistencies or shortcomings in the manner in which derivative and options surveillance is conducted. These procedures entail a daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both the options and underlying cash markets.

Competition

The Commission has stated that ''limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.'' [11] Based on the large trading volume apparent in both the underlying QQQ and QQQ options, the Exchange believes that current position and exercise limits of the QQQ option are too restrictive and may adversely affect the Amex's ability to compete with the OTC market. The Exchange believes that investors who trade listed options on the QQQ at the Amex may be placed at a serious disadvantage in comparison to certain Nasdaq-100 index derivative products traded in the OTC market where some index-based derivatives are not currently subject to position and exercise limits.[12] Member firms also continue to express their concern that position limits on popular, actively-traded products, such as QQQ options, are an impediment to business development on the Exchange. Accordingly, a portion of this business is believed to have moved to the OTC market where some index-based derivative products are not subject to position limit requirements. In addition, current base limits for the QQQ option may not be adequate in many instances for the hedging needs of certain institutions which engage in trading strategies differing from those covered under the current index hedge exemption policy (*e.g.,* delta hedges; OTC vs. listed hedges).[13]

Financial Requirements

The Exchange believes that financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in QQQ options. Current margin, and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer. It should also be noted that the Exchange has the

[7] QQQ represents ownership in the Nasdaq-100 Trust, a long-term unit investment trust established to accumulate and hold a portfolio of the equity securities that comprise the Nasdaq-100 Index. The Nasdaq-100 Index includes 100 of the largest non-financial companies listed on the Nasdaq National Market. The Nasdaq-100 reflects Nasdaq's largest growth companies across major industry groups with all index components having a market capitalization of at least $500 million and an average daily trading volume of at 100,000 shares. QQQ is intended to provide investment results that generally correspond to the Nasdaq-100 Index with an initial market value approximated at 1/40th the value of the underlying Nasdaq-100 Index. A description and analysis of the Nasdaq-100 Index is set forth by the Commission in Securities Exchange Act Release No. 33428 (January 4, 1994), 59 FR 1576 (January 11, 2994) (order approving trading of Nasdaq-100 options by CBOE). As of November 30, 2001, the market capitalization of the securities underlying the Nasdaq-100 Index was approximately $1.875 trillion while the QQQ had net assets of $23.96 billion and 559.1 million shares outstanding. By far the largest economic sector represented is technology amounting to 68.91%. The top QQQ holding is Microsoft accounting for 11.97% while the top ten holdings constitute 43.22%.

[8] *See* Securities Exchange Act Release Nos. (February 1, 1999), 64 FR 6405 (February 9, 1999) (order approving the elimination of position and exercise limits for XMI and XII options on a two-year pilot basis) and 40969 (January 22, 1999), 64 FR 4911 (February 1, 1999) (order approving the elimination of position and exercise limits for SPX, OEX, DJX and related FLEX options on a two-year pilot basis).

[9] Securities Exchange Act Release No. 39489 (December 24, 1997), (63 FR 276 (January 5, 1998).

[10] For the period of January 1, 2001 to November 30, 2001, Microsoft and Intel had average daily trading volumes of 39.38 and 53.98 million shares, respectively, compared to the QQQ with an average daily trading volume of 71.21 million shares.

[11] *See* H.R. Rep. No. IFC–3, 96th Cong., 1st Sess. At 189–91 (Comm. Print 1978).

[12] The Commission notes, however, that as an equity product, options on the QQQ are subject to position limits in the OTC market. *See* NASD Rule 2860.

[13] The current limit for QQQ options is 150,000 contracts due to the 50% reduction in the underlying value of the QQQ that occurred on March 20, 2000. At this limit, the QQQ options equate to 15,000,000 QQQ shares or an aggregate value of $59.47 billion as of November 30, 2001. At the time of approval of QQQ options, position and exercise limits were set at 25,000 (250,000 QQQ shares) equating to an aggregate value of $2,500,000 as of March 9, 1999 (commencement of trading). When QQQs commenced trading, the volume was 10.4 million shares with an opening price of $100.00 per share. The average daily trading volumes for the QQQ during 1999, 2000 and year-to-date 2001 were 13.9 million, 30.9 million and 71.21 million shares respectively, while for the same periods the average daily trading contract volume for the QQQ option were 9,206, 91,656, and 148,181. As of November 30, 2001, the price of a single QQQ was $39.65.

authority under paragraph (d)(2)(k) of Rule 462 to impose a higher margin requirement upon the member or member organization when the Exchange determines a higher requirement is warranted. Proposed Commentary .11 to Exchange Rule 904 codifies these financial requirements imposed by the Exchange and the Commission.

Reporting Requirements

Consistent with Amex Rule 906(b), the Amex will continue to require that each member or member organization that maintains a position on the same side of the market in excess of 10,000 contracts in the QQQ option, for its own account or for the account of a customer report certain information. This data includes, but is not limited to, the option position, whether such position is hedged and if so, a description of the hedge and if applicable, the collateral used to carry the position. Exchange market-markers are exempt from this reporting requirement as market-maker information can be accessed through the Exchange's market surveillance systems. Once the 10,000 contract reporting threshold is attained, the Amex requires members and member organizations to similarly report each increase of 2,500 contracts on the same side of the market for customer accounts and each increase of 5,000 contracts on the same side of the market for proprietary accounts. The Exchange believes that the reporting level of 10,000 contracts on the same side of the market for members other than Exchange market-makers is consistent with the designation of the QQQ as an equity option, and therefore, the existing regulatory regime. Pursuant to Rule 906(a), the general reporting requirement for customer accounts that maintain a position in excess of 200 contracts will remain at this level for QQQ options. Lastly, the Amex believes that the 10,000 contract reporting requirement is above and beyond what is currently required in the OTC market. According to the Amex, NASD member firms are only required to report options positions in excess of 200 contracts and are not required to report any related hedging information.

2. Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [14] in general and furthers the objectives of section 6(b)(5) [15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer File No. SR–AMEX–2001–42 and should be submitted by January 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–635 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45230; File No. SR–CBOE–2001–68]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Extend for a Six-Month Period the Pilot Program for the Exchange's 100 Spoke RAES Wheel

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. CBOE filed the proposal pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE hereby proposes to extend, for an additional six-month period, the pilot program that permits the appropriate Floor Procedure Committee (''FPC'') to allocate orders on the Exchange's Retail Automatic Execution System (''RAES'') under the allocation system known as the 100 Spoke RAES Wheel. CBOE has designated this proposal as non-controversial and requests that the Commission waive the 30-day pre-operative waiting period set forth in Rule 19b–4(f)(6)(iii) under the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

Act[5] to allow the proposal to be effective and operative immediately upon filing with the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 25, 2000, the Commission approved, on a nine-month pilot basis, the Exchange's proposal to amend CBOE Rule 6.8, which governs the operation of RAES,[6] to provide the appropriate FPC with another choice for apportioning RAES trades among participating market makers, the 100 Spoke RAES Wheel.[7] The pilot program has been extended twice and will expire on December 28, 2001.[8] CBOE now proposes to extend the pilot program for an additional six-month period ending June 28, 2002.

CBOE states that it believes that the 100 Spoke RAES Wheel pilot program is used as anticipated. CBOE represents that use of the 100 Spoke RAES Wheel has expanded since its implementation; it is currently used in approximately three-fourths of the equity options trading stations. CBOE has represented that an extension of the pilot program is necessary to further study the pilot program. CBOE believes that an extension of the pilot program will continue to provide the appropriate FPC with flexibility in determining the appropriate allocation system for a given class of options on RAES. CBOE also believes that the continuation of the pilot program will continue to reward those market makers who are most active in providing liquidity to agency business in the assigned option class.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act.[9] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to facilitate transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE has asserted that, because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate), it has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally would not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day pre-operative waiting period, which would allow the Exchange to continue the pilot program without interruption. CBOE contends that, with the continuation of the pilot program, market makers will continue to have greater incentive to compete effectively for orders in the crowd, which benefits investors and promotes the public interest. In addition, CBOE argues that, given the widespread use of the 100 Spoke RAES Wheel in equity options trading stations, requiring the Exchange to discontinue use of the 100 Spoke RAES Wheel as of December 29, 2001, would cause disruption to those trading stations and, thus, be disruptive to investors and the public interest. In light of these considerations, the Commission, consistent with the protection of investors and the public interest, has determined to designate the proposed rule change as operative immediately.[13]

In addition, Rule 19b–4(f)(6) requires the self-regulatory organization submitting the proposed rule change to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. CBOE has requested that the Commission waive the five-day pre-filing requirement. Consistent with CBOE's request, the Commission has determined to waive the pre-filing requirement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] RAES is the Exchange's automatic execution system for public customer market or marketable limit orders of less than a certain size.

[7] *See* Securities Exchange Act Release No. 42824 (May 25, 2000), 65 FR 37442 (June 14, 2000). In those classes where the 100 Spoke RAES Wheel is employed, the percentage of RAES contracts assigned to a participating market maker is essentially identical to the percentage of non-RAES in-person agency contracts traded by that market maker in that class.

[8] *See* Securities Exchange Act Release No. 44020 (February 28, 2001), 66 FR 13985 (March 8, 2001) (six-month extension to August 28, 2001; Securities Exchange Act Release No. 44749 (August 28, 2001), 66 FR 46487 (September 5, 2001) (four-month extension to December 28, 2001).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *See* 15 U.S.C. 78s(b)(3)(C).

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–68 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–596 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45231; File No. SR–CBOE–2001–73]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated to Delete a Previously Proposed Fee for Excessive RFQs on Its New Screen-Based Trading System

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on December 27, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to modify the fee schedule for the Exchange's new screen-based trading platform by deleting a previously proposed fee for excessive requests for quote (''RFQs''). The text of the proposed rule change is available at the principal office of the Exchange and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to delete a previously proposed fee for excessive RFQs applicable to the Exchange's new screen-based trading system, CBOE*direct.*

CBO*direct* is CBOE's new options trading engine. A component of trading on CBOE*direct* is the RFQ process (although CBOE market-makers may be required to provide continuous two-sided markets in products traded on the system). RFQs generally provide a mechanism for gauging the marketing in a particular option series in connection with effecting a trade in such series. Because the RFQ process is not meant to serve exclusively as an unlimited price discovery mechanism, CBOE intends to adopt an excessive RFQ fee to help protect the CBOE*direct* system.

CBOE originally submitted an excessive RFQ fee in SR–CBOE–2001–57.[3] CBOE now seeks to delete that excess RFQ fee from its fee schedule in order to reevaluate how it intends to structure the fee. CBOE has represented that it expects to submit a new fee that will assist in addressing the costs associated with excessive RFQs in the near future.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with section 6(b) of the Act[4] in general and section 6(b)(4)[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments ere solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE represents that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A) of the Act[6] and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–73 and should be submitted by January 31, 2002.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45075 (November 19, 2001), 66 FR 59038 (November 26, 2001).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–597 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45226; File No. SR–CBOE–2001–69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Trade Information Submitted to the Exchange

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2001, the Chicago Board of Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on December 26, 2001.[3] The Exchange filed Amendment No. 2 to the proposed rule change on January 2, 2002.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the provisions of Interpretation and Policies .02 of CBOE Rule 6.51 to provide that members include the required trade information on orders that they submit to the Exchange. The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Chapter VI—Doing business on the Exchange Floor

Section C: Trading Practices and Procedures

* * * * *

Reporting Duties

RULE 6.51.(a) No change.
(b) No change.
(c) No change.
(d) No change.

Interpretations and Policies

.01 No change.

.02 *When entering orders on the Exchange, each Member shall submit trade information in such form as may be prescribed by the Exchange in order to allow the Exchange to properly prioritize and route orders pursuant to the rules of the Exchange and report resulting transactions to the Clearing Corporation.* [For purposes of Rule 6.51(d), trade information shall include the proper account origin codes, which are as follows: ''c'' for a customer account, ''f'' for a firm proprietary account, ''m'' for a member market-maker account, ''j'' for a non-member joint venture participant transaction in Exchange options contracts, ''y'' for any options account of a stock specialist relating to his assignment as specialist on the primary market for the underlying stock, ''b'' for a customer range account of a broker-dealer, and ''n'' for any account of a non-member market-maker or specialist relating to his assignment in a class of options listed for trading both at this Exchange and at the exchange of the market-maker or specialist.]

.03 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange states that the proposed rule change mimics the International Securities Exchange LLC (''ISE'') Rule 712[5] and amends Interpretations and Policies .02 of CBOE Rule 6.51 (''CBOE Rule 6.51.02'') to mandate that each Member must submit trade information in such form as may be prescribed by the Exchange in order to allow the Exchange to properly prioritize and route orders pursuant to the rules of the Exchange and report resulting transactions to the Options Clearing Corporation (''OCC'').[6] CBOE Rule 6.51(d) requires members to file with the Exchange trade information in such form as may be prescribed by the Exchange. CBOE Rule 6.51.02 states that ''trade information'' for purposes of Rule 6.51(d) shall include account origin codes. The purpose of this marking requirement is primarily twofold. First, origin codes ensure that orders route to the proper location (*e.g.,* PAR, RAES, Booth) and they provide the Exchange with a mechanism by which to surveil whether members are in fact marking orders correctly. Second, the marking requirement assists the OCC in the clearance of trades.

The Exchange currently lists seven origin codes in CBOE Rule 6.51.02,[7] and it has the systems capacity to accommodate 26 origin codes (one for each letter of the alphabet). Because the Exchange's origin codes are specifically listed in its rules, each time the Exchange determines to add, delete, or change an origin code, it must submit a rule filing to the Commission. This could require the submission of 19 separate rule filings if the Exchange were to add 19 new origin codes at different times.[8]

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[8] 17 CFR 200.20–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Madge M. Hamilton, Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 21, 2001 (''Amendment No. 1''). In Amendment No. 1, the CBOE made certain technical amendments to the proposal, amended the purpose section of the proposal and provided an enhanced statutory basis for the proposal. In addition, the CBOE requested that the Commission waive the 30-day period under which the proposal would become operative under Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[4] *See* letter from Steve Youhn, Attorney, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated December 28, 2001 (''Amendment No. 2''). In Amendment No. 2, the CBOE again amended the purpose section of the proposal, enhanced the statutory basis of the proposal and reiterated its request that the Commission waive the 30-day period under which the proposal would become operative under Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[5] Securities Exchange Act Release No. 43795 (January 3, 2001), 66 FR 2468 (January 11, 2001).

[6] Currently, Interpretations .02 states that trade information submitted under CBOE Rule 6.51(d) includes certain specific origin codes.

[7] The Exchange currently uses the following origin codes: ''c'' for a customer account, ''f'' for a firm proprietary account, ''m'' for a member market-maker account, ''j'' for a non-member joint venture participant transaction in Exchange options contracts, ''y'' for any options account of a stock specialist relating to his assignments as specialist on the primary market for the underlying stock, ''b'' for a customer range account of a broker dealer, and ''n'' for any account of a non-member market-maker or specialist relating to his assignment in a class of options listed for trading both at this Exchange and at the exchange of the market-maker or specialist. *See* CBOE Rule 6.51.02.

[8] Over the next several months, the Exchange anticipates listing several new origin codes to

Continued

Accordingly, the Exchange proposes to delete the language from CBOE Rule 6.51.02 that specifically references the seven specific origin codes and instead, replace it with language stating that members must ''submit trade information in such form as may be prescribed by the Exchange.'' This change will have two primary effects. First, it would eliminate the need for the Exchange to submit a rule filing each time it adds, deletes, or changes an origin code. Second, and more importantly, it would allow the Exchange to continue to ensure that members submit requisite trade information, including origin codes, in an Exchange-dictated manner.

The Exchange notes that the proposed change to CBOE Rule 6.51.02 would not eliminate the requirement that members submit tickets with origin codes. Rather, this change simply eliminates the specific origin codes from CBOE Rule 6.51.02. Members would still be required to submit orders with origin codes. Upon approval of this filing, the Exchange will notify members of the current order marking requirements (*i.e.,* valid origin codes) by regulatory circular. As such, each time the Exchange adds, deletes, or changes an origin code, it will distribute a regulatory circular to the membership apprising it of the change. The Exchange believes that this will ensure that the Exchange's membership is aware of the applicable origin codes with which it must mark order tickets.

(2) Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5),[10] in particular, in that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change would enhance the Exchange's ability to surveil for and investigate potential fraudulent and manipulative conduct. Since the proposed rule change would enhance the Exchange's ability to conduct investigations and surveillance for misconduct, it would protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4[12] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

The Commission notes that under Rule 19b–4(f)(6)(iii), the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date.[14] The Exchange contends that acceleration of the operative date is consistent with the protection of investors and the public interest because the language of this proposed rule is substantially similar to rule language that was put out for notice and comment when ISE submitted its proposed rule change. For this reason, consistent with Section 19(b)(2) of the Act,[15] the Commission finds good cause to waive the 30-day operative period.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–69 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

accommodate linkage orders. This could require the submission of several rule filings if all origin codes are not added at the same time. For example, ''Principal Account'' orders will require a separate origin code, ''Principal Acting as Agent'' orders will require a separate origin code, and ''Principal Account Satisfaction Order'' will require another separate code.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on January 2, 2002, the date the CBOE filed Amendment No. 2.

[14] *See* Amendment No. 2, *supra* note 4.

[15] 15 U.S.C. 78s(b)(2).

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45237; File No. SR–CHX–2001–29]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Listing and Trading of Trust Issued Receipts

January 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add an Interpretation and Policy relating to Article XXVIII, Rule 27 of the CHX Rules, which governs the listing of Trust Issued Receipts (''TIRs'') on the CHX. The new Interpretation and Policy will confirm the eligibility requirements for Component Securities represented by a series of TIRs that became part of such TIR when the security was either: (a) Distributed by a company whose securities were already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security that are no longer outstanding due to a merger, consolidation, corporate combination or other event. The text of the proposed rule filing is below. Additions are in italics; deletions are in brackets.

Chicago Stock Exchange Rules

Article XXVIII

* * * * *

Trust Issued Receipts

Rule 27 No change to text

Interpretation*s* and Polic*ies*[*y*]

.01 No change in text.

.02 The eligibility requirements for Component Securities that are represented by a series of Trust Issued Receipts and that became part of the Trust Issued Receipt when the security was either: (a) Distributed by a company already included as a Component Security in the series of Trust Issued Receipts; or (b) received in exchange for the securities of a company previously included as a Component Security that is no longer outstanding due to a merger, consolidation, corporate combination or other event, shall be as follows:

(i) the Component Security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;

(ii) the Component Security must be registered under section 12 of the Exchange Act; and

(iii) the Component Security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by Component Securities included in the Trust Issued Receipt at the time of the distribution or exchange.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add an Interpretation and Policy relating to Article XXVIII, Rule 27 of the CHX Rules, which governs the listing of TIRS on the CHX. The new Interpretation and Policy will confirm the eligibility requirements for Component Securities represented by a series of TIRs that became part of such TIR when the security was either: (a) Distributed by a company whose securities were already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security that are no longer outstanding due to a merger, consolidation, corporate combination or other event.

Article XXVIII, Rule 27 of the CHX Rules set forth the eligibility criteria for Component Securities represented by a series of TIRs. The current version of the rule does not contain eligibility criteria for Component Securities that are automatically deposited into a TIR as a result of a distribution or corporate event. Accordingly, the CHX proposes the following eligibility requirements for such Component Securities: (i) The Component Security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security; (ii) the Component security must be registered under section 12 of the Act; and (iii) the Component Security & Poor's Sector Classification represented by Component Securities included in the TIR at the time of the distribution or exchange.

The CHX believes that it is appropriate in these limited situations to provide alternate eligibility criteria for Component Securities. To reduce the number of distributions of securities from the TIR which cause inconvenience and increased transaction and administrative costs for investors, it is useful to allow certain securities that are received as part of a distribution from a company or as the result of a merger, consolidation, corporate combination or other event to remain in the TIR. The proposed eligibility requirements ensure that Component Securities included in a TIR as a result of a distribution or exchange event are widely held (having been distributed to all of the shareholders holding the original Component Security), traded through the facilities of an exchange or Nasdaq and registered under section 12 of the Act.

Notably, the Exchange believes that the proposed rule change is substantially similar to rule filings previously approved on an accelerated basis by the Commission.[3]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 44309 (May 16, 2001), 66 FR 28587 (May 23, 2001) (File No. SR–Amex–2001–04); 44928 (October 12, 2001), 66 FR 53457 (October 22, 2001) (File No. SR–BSE–2001–05); and 44826 (September 20, 2001, 66 FR 49990 (October 1, 2001) (File No. SR–Phlx–2001–75).

6(b) of the Act [4] in general, and furthers the objectives of section 6(b)(5) [5] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspecation and copying at the principal office of the CHX. All submissions should refer to the File No. SR–CHX–2001–29 and should be submitted by January 31, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5) of the Act.[6] Specifically, the Commission finds that the proposal to provide an alternate eligibility criteria for Component Securities received as part of a distribution or as a result of a merger, consolidation, corporate combination or other event to remain in the trust will promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers issuers, brokers, or dealers.[7]

The CHX has requested that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to section 19(b)(2).[9] As noted above, the Commission has previously approved proposed rule changes by other exchanges that provided similar eligibility requirement.[10] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds that it is consistent with section 6(b)(5) of the Act[11] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CHX–2001–29) is hereby approved on an accelerated basis.

For the Commission, by the Divsiion of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–634 Filed 1– 9–02; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] *See supra* note 3.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 45192; File No. SR–Phlx–2001–106]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Exchange Rule 98, Emergency Committee Until May 30, 2002

December 26, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 23, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot program period for Rule 98, Emergency Committee until May 30, 2002. No changes to the existing rule language are being proposed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The Exchange filed the pre-filing notice required by Rule 19b–4(f)(6) by filing a written description of the proposed rule change and the text of the proposed rule change on November 16, 2001.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 23, 1999, the Commission approved amendments to Rule 98, Emergency Committee (the ''Committee''), which updated the composition of the Committee to reflect the current governance structure of the Exchange, on a 120-day pilot basis.[5] The pilot has been extended five times, most recently to November 30, 2001.[6] The pilot program is being extended again to May 30, 2002 as the Exchange and the Commission consider other changes to the composition of the Committee.

The Exchange originally proposed to amend Rule 98, Emergency Committee, by updating the composition of the Committee to correspond with previous revisions to the Exchange's governance structure,[7] and by deleting a provision authorizing the Committee to take action regarding CENTRAMART, an equity order reporting system which is no longer used on the Exchange Equity Floor.

The Committee was formed in 1989[8] prior to the aforementioned changes to the Exchange's governance structure. The original proposed rule change, approved by the Commission, deleted the word ''President'' from the rule, as the Exchange no longer has a ''President,'' and included the Exchange's On-Floor Vice Chairman[9] as a member of the Committee.

Thus, Rule 98 specifies the composition of the Emergency Committee to include the following individuals: The Chairman of the Board of Governors; the On-Floor Vice Chairman of the Board of Governors; and the Chairmen of the Options Committee, the Floor Procedure Committee, and the Foreign Currency Options Committee.

Extension of the pilot program through May 30, 2002 permits the Committee to reflect the current governance structure of the Exchange and ensures that the Committee will be in place to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.[10] The extension of the pilot program will also allow the Exchange and the Commission the necessary time to propose changes to the Committee's structure to meet the Commission's concerns about whether the Committee ensures that all interests of the Exchange (*e.g.,* On-Floor and Off-Floor) are adequately represented by the Committee, particularly in light of the events of September 11, 2001.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6[11] of the Act in general, and with Section 6(b)(5)[12] of the Act in specific, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by updating the composition of the Emergency Committee to reflect the current governance structure of the Exchange, and by continuing to provide a regular procedure for the Exchange to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder because the proposed rule change does not (i) significantly affect the protection of investors or their public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which the proposed rule change was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds that it is appropriate to accelerate the operative date of the proposed rule change and to permit the proposed rule change to become immediately operative because the proposal simply extends a previously approved pilot program until May 30, 2002. No changes to Rule 98 are being proposed at this time and the Commission has not received any comments on the pilot program. In addition, the Exchange appropriately filed a pre-filing notice as required by Rule 19b–4(f)(6).[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

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[5] Securities Exchange Act Release No. 42272 (December 23, 1999), 65 FR 153 (January 3, 2000) (SR–Phlx–99–42). In the approval order, the Commission requested that the Exchange examine the operation of the Committee to ensure that the Committee is not dominated by any one Exchange interest (*e.g.,* On-Floor or Off-Floor interest). The Commission requested that the Exchange report back to the Commission on its views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee.

[6] Securities Exchange Act Release No. 42898 (June 5, 2000), 65 FR 36879 (June 12, 2000) (SR–Phlx–00–41), extending the pilot program until August 21, 2000; Securities Exchange Act Release No. 43169 (August 17, 2000), 65 FR 51888 (August 25, 2000) (SR–Phlx–00–76), extending the pilot program until November 17, 2000. On July 14, 2000, the Exchange filed a proposed rule change to effect the amendments on a permanent basis. SR–Phlx–00–63 (filed July 14, 2000). In SR–Phlx–00–63 the Exchange also enclosed the Exchange's views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee. Because the Exchange was considering further changes to the Committee, SR–Phlx–00–63 was withdrawn on June 15, 2001. The pilot program was extended again until April 30, 2001, Securities Exchange Act Release No. 43614 (November 22, 2000), 65 FR 75332 (December 1, 2000) (SR–Phlx–00–101); and again until July 31, 2001, Securities Exchange Act Release No. 44245 (May 1, 2001), 66 FR 23961 (May 10, 2001) (SR–Phlx–2001–44). The last extension of the pilot program was until November 30, 2001. Securities Exchange Act Release No. 44653 (August 3, 2001), 66 FR 43289 (August 17, 2001) (SR–Phlx–2001–70).

[7] *See* Securities Exchange Act Release No. 38960 (August 22, 1997), 62 FR 45904 (August 29, 1997) (SR–Phlx–97–31).

[8] *See* Securities Exchange Act Release No. 26858 (May 22, 1989), 54 FR 23007 (May 30, 1989) (SR–Phlx–88–36).

[9] *See also* Exchange By-Law, Article IV, Section 4–2.

[10] Previously, the Exchange has described ''extraordinary market or emergency conditions'' as, among other things, a declaration of war, a presidential assassination, an electrical blackout, or events such as the 1987 market break or other highly volatile trading conditions that require intervention for the market's continued efficient operation. Letter dated March 15, 1989, from William W. Uchimoto, General Counsel, Exchange, to Sharon L. Itkin, Esquire, Commission, Division of Market Regulation.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such fling will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR–Phlx–2001–106 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–595 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45233; File No. SR–Phlx–2001–116]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Its Schedule of Dues, Fees and Charges To Increase the Equity Floor Brokerage Assessment

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its schedule of dues, fees and charges to increase the equity floor brokerage assessment from 1.25% of net floor brokerage income to 5%. The increased equity floor brokerage assessment fee will be implemented on transactions settling on or after January 2, 2002. Previously, the Exchange charged a 5% equity floor brokerage assessment fee but offered equity specialist units that also conducted floor brokerage business on the Exchange a discounted rate on the assessment at 1.25%. That discounted rate was subsequently extended to all equity floor brokerage.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Currently, the Exchange assesses a monthly fee on the amount of money a floor broker bills to its customers each month for floor brokerage services with respect to equity securities. The current rate is 1.25% of net floor brokerage income and has been in effect for over four years. Given the costs of operating the Exchange's equities trading floor, the Exchange believes that it is now necessary to increase the equity floor brokerage assessment fee to 5%. The Exchange notes that prior to reducing the equity floor brokerage assessment fee to 1.25% in November 1997,[4] the rate was 5% for floor brokerage units only and specialist units that conducted a floor brokerage business were charged a discounted rate of 1.25%. Furthermore, the Exchange notes that the increased rate of 5% is the same rate that is currently charged on equity and index options floor brokerage.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[5] of the Act in general and, in particular, with section 6(b)(4)[6] of the Act, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee or other charge imposed by the Exchange, has become effective pursuant to section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 39325 (November 13, 1997), 62 FR 62395 (November 21, 1997).

[4] *Id.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–116 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–598 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Individual Law Enforcement Agencies)—Match Number 5001

AGENCY: Social Security Administration (SSA).

ACTION: Notice of computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with individual law enforcement agencies.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Acting Associate Commissioner for Program Support, 2–Q–16 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Acting Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 4, 2002.

Frederick G. Streckewald,

Acting Assistant Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With Individual Law Enforcement Agencies

A. PARTICIPATING AGENCIES

SSA and Source Jurisdiction.

B. PURPOSE OF THE MATCHING PROGRAM

This agreement establishes conditions under 5 U.S.C. 552a, as amended, for a matching operation that will identify individuals who are both fugitive felons or parole or probation violators from the Source Jurisdiction and are also Supplemental Security Income (SSI) recipients. Such individuals may be receiving benefits or payments improperly. The disclosure will provide SSA and the Office of the Inspector General for SSA with information about fugitive felons or parole or probation violators who are also SSI recipients. The SSI program was created under title XVI of the Social Security Act (''Act'') to provide benefits to individuals with income and resources below levels established by law and regulations.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM

Sections 1106, 1611(e)(4) and (5) of the Act (42 U.S.C. 1306, 1382 (e)(4)and (5)).

D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM

The Source Jurisdiction will provide SSA with electronic files/records compiled from various databases. These records will identify individuals for SSA who come under the definition of fugitive felons or the definition of probation or parole violators set out in the matching agreement. The incoming Source Jurisdiction records will be matched against the following systems of records to identify individuals potentially subject to termination of benefit or payment eligibility under applicable requirements of the above-described benefit program: SSA's Supplemental Security Income Record and Special Veterans Benefits (SSA 60–0103) and Master Files of Social Security Number (SSN) Holders and SSN Applications (SSA 60–0058).

E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The matching program will become effective upon signing of the agreement by both parties to the agreement and approval of the agreement by SSA's Data Integrity Board, but no sooner than 30 days after notice of this matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 02–666 Filed 1–9–02; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice 3842]

Office of Recruitment, Examination, and Employment; 60-Day Notice of Proposed Information Collection: Thomas R. Pickering Foreign Affairs Fellowship Program

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and

[9] 17 CFR 200.30–3(a)(12).

Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: New.

Originating Office: HR/REE.

Title of Information Collection: Thomas R. Pickering Foreign Affairs Fellowship Program.

Frequency: Annual.

Form Number: None.

Respondents: University Graduate and Undergraduate Students.

Estimated Number of Respondents: 250.

Average Hours Per Response: 40.

Total Estimated Burden: 3,750.

Average Cost Per Applicant: $50.

Total Estimated Cost Burden: $12,500.

- Public comments are being solicited to permit the agency to:
- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to LeAnn Bullin, Department of State, 2401 E Street, NW., 5H, Washington, DC 20522, who may be reached on 202–261–8927.

Dated: November 2, 2001.

Ruth Whiteside,

Principal Deputy Assistant Secretary, Bureau of Human Resources, Department of State.

[FR Doc. 02–663 Filed 1–9–02; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

Office of Foreign Missions

[Public Notice 3874]

30-Day Notice of Proposed Information Collection: Form DS–1504, Request for Customs Clearance of Merchandise (OMB Control #1405–0104)

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Re-instatement of an expired information collection.

Originating Office: Bureau of Diplomatic Security, Office of Foreign Missions, DS/OFM/VTC/TC.

Title of Information Collection: Request for Customs Clearance of Merchandise.

Frequency: On occasion.

Form Number: DS–1504.

Respondents: Eligible members of foreign diplomatic or consular missions, certain foreign government organizations, designated international organizations and certain categories of foreign military personnel assigned to a foreign mission in the United States. The White House also uses this form when it requests duty-free entry of a shipment.

Estimated Number of Respondents: Approximately 7,000 individual respondents, 1,034 organizational respondents, and the White House.

Average Hours per Response: The average time per response is approx. 15 minutes.

Total Estimated Burden: 3,072 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection form and supporting documents may be obtained from Mr. Edmond McGill, DS/OFM/VTC/TC, 3507 International Place, NW., U.S. Department of State, Washington, DC 20008, tel.: 202–895–3618. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: November 27, 2001.

Theodore Strickler,

Deputy Assistant Secretary of State and Deputy Director, Office of Foreign Missions, Bureau of Diplomatic Security, U.S. Department of State.

[FR Doc. 02–662 Filed 1–9–02; 8:45 am]

BILLING CODE 4710–43–U

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Submission for OMB review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523. Comments should be sent to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Tennessee Valley Authority by February 11, 2002.

Type of Request: Regular submission.

Title of Information Collection: TVA Aquatic Plant Management.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 800.

Estimated Total Annual Burden Hours: 160.

Estimated Average Burden Hours Per Response: .2 (12 minutes).

Need for and Use of Information: TVA is committed to involving the public in developing plans for managing aquatic plants in individual TVA lakes under a Supplemental Environmental Impact Statement completed in August 1993. This proposed survey will provide a mechanism for obtaining input into this planning process from a representative sample of people living near each lake. The information obtained from the survey will be factored into the development of aquatic plant management plans for mainstream Tennessee River lakes.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations Information Services.

[FR Doc. 02–610 Filed 1–9–02; 8:45 am]

BILLING CODE 8120–08–U

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The Regional Resource Stewardship Council (Regional Council) will hold a meeting to consider various matters. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2, (FACA).

The meeting agenda includes the following briefings:

1. Feedback from TVA on the Recommendations Submitted to the TVA Board of Directors
2. Recommendation on Appropriations Funding of TVA Nonpower Programs
3. Recommendation from the Water Quality Subcommittee on Water Use Management
4. Public Comments
5. Progress Report on the Reservoir Operations Study
6. Discussion of Recommendations
7. Status of the Council Report from TVA

It is the Regional Council's practice to provide an opportunity for members of the public to make oral public comments at its meetings. Public comment session is scheduled from 1 to 2 p.m. Central time. Members of the public who wish to make oral public comments may do so during the Public comment portion of the agenda. Up to one hour will be allotted for the Public comments with participation available on a first-come, first-served basis. Speakers addressing the Council are requested to limit their remarks to no more than 5 minutes. Persons wishing to speak register at the door and are then called on by the Council Chair during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902.

DATES: The meeting will be held on Thursday, January 31, 2002, from 8 a.m. to 4:30 p.m. Central Standard Time. Public comments are scheduled to begin at 1 p.m., ending by 2 p.m. Central Time.

ADDRESSES: The meeting will be held at the Huntsville Marriott, 5 Tranquility Base, Huntsville, Alabama 35805, and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Sandra L Hill, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902, (865) 632–2333.

Dated: January 3, 2002.

Kathryn J. Jackson,

Executive Vice President, River System Operations and Environment, Tennessee Valley Authority.

[FR Doc. 02–611 Filed 1–9–02; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

New Mail Delivery/Document Filing Information Relating to Department of Transportation Informal Rulemaking Proceedings and Certain Preemption Determination Proceedings

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice.

SUMMARY: The Department of Transportation now is receiving all United States Postal Service (USPS) deliveries. However, actions taken over the last three months in response to the September 11 terrorist attacks and to contain the anthrax threat have significantly delayed or prevented our receipt of mail sent to DOT. These actions may have caused filings related to DOT informal rulemaking and certain preemption determination proceedings to arrive after the close of the comment period or not at all. We are providing notice of alternative methods for ensuring that your filings come to us. We also want to assure you that we will do everything that we can to consider comments that we otherwise would have received before the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Gwyneth Radloff, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–9319. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: After the September 11, 2001, terrorist attacks, overnight shippers, e.g., FEDEX, advised the U.S. Department of Transportation (DOT) offices that they faced delivery delays because the airlines had been grounded. In addition, DOT requested that, beginning October 16, 2001, the United States Postal Service (USPS) halt most mail deliveries until it could put in place appropriate safety measures to address the potential threat from anthrax-contaminated mail. Mail caught in transit between October 13 and October 22 at DC's Brentwood Facility, where testers found traces of anthrax, may be part of quarantined mail that we might never receive (although we did get one delivery on October 22, 2001). Mail sent to DOT from mid-October to November 27 has been significantly delayed. DOT began receiving mail again on November 28. Even now, the USPS continues to irradiate first class and express mail bound for DOT. This means that we will receive mail after delays of a week or more. We do not know the full extent of the impact delayed or blocked mail delivery will have on our informal rulemaking proceedings and preemption determination proceedings for the Research and Special Programs Administration and Federal Motor Carrier Safety Administration.

We wish to advise the public that we will take this interruption of mail service into account, with respect to DOT rulemakings or preemption determination proceedings with comment periods that closed before mail delivery resumed on November 28, 2001. In some cases, where feasible, our agencies are extending or reopening comment periods. In other cases, we will do everything possible to ensure that we consider comments that we otherwise would have received before the close of the comment period. For example, we generally have the authority to consider late-filed

comments and will do so to the extent practicable. We will also take note of the date of the USPS postmark for late-filed comments. Please note that Docket Office time stamps all items as they receive them.

Because we cannot be sure if we received filings sent just before October 13 or when, if ever, we will receive filings and comments caught in Brentwood between October 13 and November 27, please check our Dockets Web page (*http://dms.dot.gov*) to see if we received and processed your document(s). If your document is not in the electronic docket, we may not have received it. Please bear in mind that processing a document into the electronic system after receipt may take up to eight business days, especially since the DOT Mail Room must x-ray and screen all package deliveries prior to their acceptance into the DOT Docket Management System. If you do not have the electronic capability to check the docket, many public libraries have computers that you can use to electronically search the DOT dockets. Also, you can come to DOT and use the reading room computers in our Dockets Office, which is located on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, and is open between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

If your check of the docket reveals that we have not received your document, please fax us a copy at 202–493–2251 or resubmit your document with a notation that you are resending it. Please send it to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Please make sure the docket number is noted on the first page. We ask you to take these steps as soon as possible so that we will be able to consider your comments if we still can.

This notice addresses only preemption determination proceedings of the Research and Special Programs Administration and the Federal Motor Carrier Safety Administration and informal rulemaking proceedings conducted by any of the Department's agencies: the Bureau of Transportation Statistics, the Federal Aviation Administration, the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the Federal Transit Administration, the Maritime Administration, the National Highway Traffic Safety Administration, the Office of the Secretary, the Research and Special Programs Administration, the St. Lawrence Seaway Development Corporation, and the U.S. Coast Guard.

We currently are accepting U.S. mail delivery by the USPS and deliveries from alternate delivery carriers. We also are accepting hand-delivered packages in the Docket Office, which is located on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, where possible, we encourage filers to use our Electronic Submission System on the DOT Dockets Web page (*http://dms.dot.gov*) by clicking on ES Submit and following the online instructions.

Issued in Washington, DC, on December 31, 2001.

Kirk K. Van Tine,

General Counsel.

[FR Doc. 02–657 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity To Participate, Criteria Requirements and Change of Application Procedure for Participation in the Military Airport Program (MAP)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of criteria and application procedure for designation or re-designation, for the fiscal year 2002 MAP.

SUMMARY: This notice announces the criteria, application procedures and schedule to be applied by the Secretary of Transportation in designating or re-designating, and funding capital development annually for 15 current (joint-use) or former military airports seeking designation or re-designation to participate in the MAP. This Notice reflects and incorporates changes made to MAP in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.

The MAP allows the Secretary to designate current (joint-use) or former military airports for which grants may be made under the Airport Improvement Program (AIP). The Secretary is authorized to designate an airport (other than an airport so designated before August 24, 1994) if: (1) The airport is a former military installation closed or realigned under the Title 10 U.S.C. 2687 announcement of closures of large Department of Defense installations after September 30, 1977, or under section 201 or 2905 of the Defense Authorization Amendments and Base Closure and Realignment Acts; or (2) the airport is a military installation with both military and civil aircraft operations. The Secretary shall consider for designation only those current or former military airports, at least partly converted to civilian airports as part of the national air transportation system, that will reduce delays at airports with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings, or will enhance airport and air traffic control system capacity in metropolitan areas or reduce current and projected flight delays (49 U.S.C. 47118(c)).

DATES: Airport sponsors should address written applications for new designation and re-designation in the MAP to the FAA Regional Airports Division or Airports District Office that serves the airport. That office of the FAA must receive applications on or before February 14, 2002.

ADDRESSES: Submit an original and two copies of Standard Form (SF) 424, ''Application for Federal Assistance,'' prescribed by the Office of Management and Budget Circular A–102, available at *http://www.whitehouse.gov/OMB/grants/index.html,* along with any supporting and justifying documentation. Applicant should specifically request to be considered for designation or re-designation to participate in the fiscal year 2002 MAP. Submission should be sent to the Regional FAA Airports Division or Airports District Office that serves the airport. Applicants may find the proper office on the FAA Web site *http://www.faa.gov/arp/arphome.htm* or may contact the office below.

FOR FURTHER INFORMATION CONTACT: Mr. Murdock (*oliver.murdock@faa.gov*) or Leonard C. Sandelli (*len.sandelli@faa.gov*), Military Airport Program Branch (APP–420), Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8244, or (202) 267–8785, respectively.

SUPPLEMENTARY INFORMATION:

General Description of the Program

The MAP provides capital development assistance to civil airport sponsors of designated current (joint-use) military airfields or former military airports that are included in the FAA's National Plan of Integrated Airport Systems (NPIAS). Airports designated under the program may obtain funds from a set-aside (currently four-percent) of AIP discretionary funds to undertake eligible airport development, including

certain types of projects not otherwise eligible for AIP assistance. Such airports may also be eligible to receive grants from other categories of AIP funding.

Number of Airports

A maximum of 15 airports per fiscal year may participate in the MAP at any time. There are 5 slots available for designation or re-designation in FY 2002.

Term of Designation

The maximum period of eligibility for any airport to participate in the MAP is five fiscal years following designation. An airport sponsor having previously been in the program may apply for re-designation and, if found to satisfy the designation criteria upon reapplication, may have the opportunity to participate for subsequent periods, each not to exceed five fiscal years. The FAA can designate airports for a period less than five years. The FAA will evaluate the conversion needs of the airport in its five-year capital development plan to determine the appropriate length of designation.

Re-designation

Title 49 of the United States Code section 47118(d), permits previously designated airports to apply for re-designation. Applicants reapplying need to meet current eligibility criteria set forth at 49 U.S.C. 47118(a). Re-designation will be considered largely in terms of warranted projects fundable under AIP solely through the MAP. The airport must have MAP eligible projects and the airport must continue to satisfy the designation criteria for the MAP. The FAA will carefully evaluate applications for re-designation, as new candidates tend to have the greatest conversion needs.

Eligible Projects

In addition to other eligible AIP projects, passenger terminal facilities, fuel farms, utility systems, surface automobile parking lots, hangars, and air cargo terminals up to 50,000 square feet of floor space are all eligible to be funded from the MAP. Designated or re-designated military airports can receive not more than $7,000,000 each fiscal year for projects to construct, improve, or repair terminal building facilities. Also, designated or re-designated military airports can receive not more than a total of $7,000,000 for MAP eligible projects that include hangars, cargo facilities, fuel farms, automobile surface parking, and utility work.

Designation Considerations

In making designations of new candidate airports, the Secretary of Transportation may only designate an airport (other than an airport so designated before August 24, 1994) if it meets the following general requirements:

(I)(1) The airport is a former military installation closed or realigned under—

(A) Section 2687 of title 10;

(B) Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (BRAC) (10 U.S.C. 2687 note); or

(C) Section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

(2) The airport is a military installation with both military and civil aircraft operations.

(II) The airport is classified as a commercial service or reliever airport in the NPIAS. One of the designated airports, if included in the NPIAS, may be a general aviation (GA) airport (public airport other than an air carrier airport, 14 CFR 152.3) that was a former military installation closed or realigned under BRAC, as amended, or 10 U.S.C. 2687. (49 U.S.C. 47118(g)). There is no general aviation slot available this fiscal year because the slot was assigned to Oscoda-Wurtsmith for two years. FY 2002 is that airport's second year.

(III) In designating new candidate airports, the Secretary shall consider if a grant would:

(1) Reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

(2) Enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.

The application for new designations will be evaluated in terms of how the proposed airport and associated projects would contribute to congestion relief and/or how the airport would enhance air traffic or airport system capacity and provide adequate user services.

Project Evaluation

Recently approved Base Closure and Realignment Acts or Title 10 U.S.C. 2678 military airports as well as active military airfields with new joint use agreements will be in the greatest need of funding to convert to or to incorporate civil airport operations successfully. Newly converted airports and new joint-use locations frequently have minimal capital development resources and will therefore receive priority consideration for designation and MAP funding. The FAA will evaluate the need for eligible projects based upon information in the candidate airport's five year Airport Capital Improvement Plan (ACIP). Of particular concern is whether these projects are related to development of that airport and/or the air traffic control system. It is the intent of the Secretary of Transportation to fund those airport projects where the benefits to the capacity of the air traffic control or airport systems can be maximized, and/or where the contribution to reducing congestion can be maximized.

1. The FAA will evaluate the candidate airports and/or the airports such candidate airports would relieve based on the following specific factors:

- Compatibility of airport roles and the ability of the airport to provide an adequate airport facility;
- The capability of the candidate airport and its airside and landside complex to serve aircraft that otherwise must use the relieved airport;
- Landside surface access;
- Airport operational capability, including peak hour and annual capacities of the candidate airport;
- Potential of other metropolitan area airports to relieve the congested airport;
- Ability to satisfy, relieve or meet air cargo demand within the metropolitan area;
- Forecasted aircraft and passenger levels, type of air carrier service anticipated, i.e., scheduled and/or charter air carrier service;
- Type and capacity of aircraft projected to serve the airport and level of operations at the relieved airport and the candidate airport;
- The potential for the candidate airport to be served by aircraft or users, including the airlines, serving the congested airport;
- Ability to replace an existing commercial service or reliever airport serving the area; and
- Any other documentation to support the FAA designation of the candidate airport.

2. The FAA will evaluate the development needs, which if funded, would make the airport a viable civil airport that will enhance system capacity or reduce delays. Newly closed installations or airport sponsors with new joint-use agreements with existing military aviation facilities will be strongly considered for designation since they tend to have the greatest conversion needs.

Application Procedures and Required Documentation

Airport sponsors applying for designation or re-designation must complete and submit an SF 424,

''Application for Federal Assistance,'' and supporting documentation to the appropriate FAA office serving that airport. The SF 424 must indicate whether it is an initial application or reapplication for the MAP, and must be accompanied by the documentation and justification listed below:

(A) Identification as Current or Former Military Airport. The application must identify the airport as either a current or former military airport and indicate whether it was:

(1) Closed or realigned under section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, and/or section 2905 of the Defense Base Closure and Realignment Act of 1990 (Installations Approved for Closure by the Defense Base Realignment and Closure Commissions), or

(2) Closed or realigned pursuant to 10 U.S.C. 2687 as excess property (bases announced for closure by DOD pursuant to this title after September 30, 1977 (this is the date of announcement for closure and not the date of the deed to the airport sponsor)), or

(3) A military installation with both military and civil aircraft operations.

(B) Qualifications for MAP:

For (1) through (7) below the applicant does not need to resubmit any unchanged documentation that has been previously submitted to the Regional Airports Division or Airports District Office.

(1) Documentation that the airport meets the definition of a ''public airport'' as defined in 49 U.S.C. 47102(16).

(2) Documentation indicating that the required environmental review process for civil reuse or joint-use of the military airfield has been completed. This environmental review would not include review of the individual projects to be funded by the MAP. Rather, the documentation should reflect that the environmental review necessary to convey the property, enter into a long-term lease, or sign a joint use agreement has been completed. The military department conveying or leasing the property, or entering into a joint use agreement, generally has the lead responsibility for this environmental review. The environmental review and approvals must indicate that the operator or owner of the airport has good title; satisfactory to the Secretary, or gives assurance that good title will be acquired, to meet AIP requirements.

(3) In the case of a former military airport, documentation that the eligible airport sponsor holds or will hold satisfactory title, a long-term lease in furtherance of conveyance of property for airport purposes, or a long-term interim lease for 25 years or more, to the property on which the civil airport is being located. Documentation that an application for surplus or BRAC airport property has been accepted by the Government is sufficient to indicate the eligible airport sponsor holds or will hold adequate title or a long-term lease.

(4) In the case of a current military airport documentation that the airport sponsor has an existing joint-use agreement with the military department having jurisdiction over the airport. This is necessary so the FAA can legally issue grants to the sponsor.

(5) Documentation that the service level of the airport is expected to be classified as a ''commercial service airport'' or a ''reliever airport'' as defined in 49 U.S.C. 47102(7) and 47102(18).

(6) Documentation that the airport owner is an eligible airport ''sponsor'' as defined in 49 U.S.C. 47102(19).

(7) Documentation that the airport has an unconditionally approved airport layout plan (ALP) and a five-year Airport Capital Improvement Program (ACIP) indicating all eligible grant projects seeking to be funded either from the MAP or other portions of the AIP.

(8) Information identifying the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and, if applicable, the relieved airport. Also, if applicable, information on how the airport contributes to air traffic system or airport system capacity. If served by commercial air carriers, the revenue passenger and cargo levels should be provided.

(9) A description of the airport's projected civil role and development needs for transitioning from use as a military airfield to a civil airport, including how development projects would serve to reduce delays at an airport with more than 20,000 hours of annual delays by commercial passenger aircraft takeoffs and landings or enhance capacity in a metropolitan area.

(10) A description of the existing airspace capacity. Describe how anticipated new operations would affect the surrounding airspace and air traffic flow patterns in the metropolitan area in or near which a current or former military airport is located. Include a discussion of the level to which operations at this airport create airspace conflicts that may cause congestion or whether air traffic works into the flow of other air traffic in the area.

(11) A description of the airport's five-year ACIP, including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs. The ACIP must specifically identify the safety, capacity and conversion related projects, associated costs, and projected five-year schedule of project construction, including those requested for consideration for MAP funding.

(12) A description of those projects that are consistent with the role of the airport and effectively contribute to the joint use or conversion of the airfield to a civil airport. The projects can be related to various improvement categories depending on what is needed to convert from military to civil airport use, to meet required civil airport standards, and/or to provide capacity to the airport and/or airport system. The projects selected; i.e., safety-related, conversion-related, and/or capacity-related, must be identified and fully explained based on the airport's planned use. Those projects that may be eligible under MAP, if needed for conversion or capacity-related purposes, must be clearly indicated, and include the following information:

Airside:

- Modification of airport or military airfield for safety purposes, including airport pavements modifications (i.e. widening), marking, lighting, strengthening, drainage or modifying other structures or features in the airport environs to meet civil standards for airport imaginary surfaces as described in 14 CFR part 77.
- Construction of facilities or support facilities such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use.
- Modification of airport or military utilities (electrical distribution systems, communications lines, water, sewer, storm drainage) to meet civil standards. Also, modifications that allow utilities on the civil airport to operate independently, where other portions of the base are conveyed to entities other than the airport sponsor or retained by the Government.
- Purchase, rehabilitation, or modification of airport and airport support facilities and equipment, including snow removal, aircraft rescue, fire fighting buildings and equipment, airport security, lighting vaults, and reconfiguration or relocation of eligible buildings for more efficient civil airport operations.
- Modification of airport or military airfield fuel systems and fuel farms to accommodate civil aviation use.
- Acquisition of additional land for runway protection zones, other

approach protection, or airport development.

• Cargo facility requirements.

• Modifications which will permit the airfield to accommodate general aviation users.

Landside:

• Construction of surface parking areas and access roads to accommodate automobiles in the airport terminal and air cargo areas and provide an adequate level of access to the airport.

• Construction or relocation of access roads to provide efficient and convenient movement of vehicular traffic to, on, and from the airport, including access to passenger, air cargo, fixed base operations, and aircraft maintenance areas.

• Modification or construction of facilities such as passenger terminals, surface automobile parking lots, hangars, air cargo terminal buildings, and access roads to cargo facilities to accommodate civil use.

(13) An evaluation of the ability of surface transportation facilities (road, rail, high-speed rail, maritime) to provide intermodal connections.

(14) A description of the type and level of aviation and community interest in the civil use of a current or former military airport.

(15) One copy of the FAA-approved ALP for each copy of the application. The ALP or supporting information should clearly show capacity and conversion related projects. Also, other information such as project costs, schedule, project justification, other maps and drawings showing the project locations, and any other supporting documentation that would make the application easier to understand should be included. These maps and ALP's should be cross-referenced with the project costs and project descriptions.

Re-designation of Airports Previously Designated and Applying for Up to an Additional Five Years in the Program

Airports applying for re-designation to the Military Airport Program need to submit the same information required by new candidate airports applying for a new designation. On the SF 424, Application for Federal Assistance, prescribed by the Office of Management and Budget Circular A–102, airports must indicate their application is for re-designation to the MAP. In addition to the above information, they must explain:

(1) Why a re-designation and additional MAP eligible project funding is needed to accomplish the conversion to meet the civil role of the airport and the preferred time period for re-designation;

(2) Why funding of eligible work under other categories of AIP or other sources of funding would not accomplish the development needs of the airport;

(3) Why, based on the previously funded MAP projects, the projects and/or funding level were insufficient to accomplish the airport conversion needs and development goals; and

(4) The term of the re-designation, not to exceed five years, for which the airport is applying.

This notice is issued pursuant to Title 49 U.S.C. 47118.

Issued at Washington, DC, on January 4, 2002.

Benito DeLeon,

Deputy Director, Office of Airport Planning and Programming.

[FR Doc. 02–651 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02–02–U–00–HGR) To Use a Passenger Facility Charge (PFC) at Hagerstown Regional Airport—Richard A. Henson Field, Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a passenger facility charge (PFC) at Hagerstown Regional Airport—Richard A. Henson Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 11, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Arthur Winder, Project Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Carolyn S. Motz, Airport Manager, Board of County Commissioners of Washington County, Maryland at the following address: Hagerstown Regional Airport—Richard A. Henson Field, 18434 Showalter Road, Hagerstown, Maryland 21742–1347.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Board of County Commissioners of Washington County, Maryland under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Project Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016, (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Hagerstown Regional Airport—Richard A. Henson Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 28, 1999, the FAA determined that the application to impose and use a PFC submitted by the Board of County Commissioners of Washington County, Maryland was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1999.

The following is a brief overview of the application.

PFC Application No.: 02–02–U–00–HGR.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2002.

Proposed charge expiration date: July 8, 2003.

Total estimated PFC revenue: $206,000.

Brief description of proposed project(s):

—Construct Snow and Equipment Maintenance Building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled/On-Demand Air Carrier filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports Office located at: Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, NY 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Hagerstown Regional Airport—Richard A. Henson Field.

Issued in Dulles, VA 22016, January 3, 2002.

Terry J. Page,

Manager, Washington Airports District Office.

[FR Doc. 02–654 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9688]

Agency Information Collection Activities Under OMB Review: OMB Control No. 2126–0001 (Driver's Record of Duty Status)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FMCSA announces that the Information Collection Request (ICR) described in this notice is being sent to the Office of Management and Budget (OMB) for review and approval. The FMCSA is requesting approval of the information that is required for the Record of Duty Status (RODS) of drivers of commercial motor vehicles (CMVs). This information collection is necessary to ensure that motor carriers and CMV drivers comply with the limitations on maximum driving and duty time prescribed in the Federal Motor Carrier Safety Regulations (FMCSRs). The ICR describes the information collection and its expected burden. FMCSA is sending the ICR to OMB in accordance with the terms of the Paperwork Reduction Act of 1995. The FMCSA published the required **Federal Register** notice offering a 60-day comment period on this information collection on May 21, 2001 (66 FR 28017). Two comments were received during this comment period and are addressed below.

DATES: Please submit comments by February 11, 2002.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, *Attention:* DOT Desk Officer. We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including: whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. OMB wants to receive comments within 30 days of publication of this notice in order to act on the ICR quickly.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr. (202) 366–2718, Driver and Carrier Operations (MC–PSD), Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Driver's Record of Duty Status

OMB Approval Number: 2126–0001

Background: The record of duty status (RODS) is the primary tool used by the FMCSA to determine the compliance of motor carriers and CMV drivers with the maximum driving and duty time limitations prescribed in the FMCSRs. States that receive Motor Carrier Safety Assistance Program (MCSAP) grants from the FMCSA employ these tools to determine the regulatory compliance of CMV drivers during safety inspections. The information contained in the RODS determines whether a driver can drive a CMV on any given day, based upon the duty hours and driving time recorded by the driver over the previous 7 to 8 days. The RODS is an important tool to help ensure the safety of the general public by reducing the number of tired drivers on the nation's highways.

On May 21, 2001, the FMCSA gave notice that the agency intended to seek OMB approval of the renewal of this information collection (66 FR 28017). The Notice solicited public comment; two comments were received. Both comments indicated that both drivers and carriers, in complying with the paperwork associated with the RODS, consume more time than FMCSA had estimated. The American Trucking Association (ATA) reported the results of a survey of its members. Member drivers estimated that it takes 10 to 15 minutes per day to properly complete a log sheet. Member motor carriers estimated that it takes 9 minutes per day to ''review, check for accuracy, and file'' each record of duty status. The Owner-Operators Independent Drivers Association (OOIDA) also provided estimates from its members. Member drivers estimated that it takes ''approximately 15 minutes'' per day to properly complete a log sheet. Member motor carriers estimated that it takes 9 to 10 minutes daily, per RODS, to receive, process and store the information.

In light of the comments received FMCSA has reconsidered the assumptions we applied in developing our previous estimates. In addition, the agency conducted a small number of ''time trials'' to examine the process of completing a RODS more closely. The agency separated the standard RODS into three parts: the basic information at the top of the log, the large area for tracking the actual duty status through the day, and the summary portion. The agency determined that the industry average for each part of the RODS were as follows:

Date, name and address of the motor carrier, vehicle number and total miles—1 minute.

30 to 45 seconds per change of duty status (each individual grid entry) with 6 to 8 changes of duty status per day for most drivers—4 minutes and 30 seconds.

Addition of the total hours for each status line, and for the 24-hour period—1 minute.

FMCSA has previously estimated that 2 minutes daily are required for a driver to complete a RODS. We now estimate that 6.5 minutes daily are required to complete minimally compliant RODS. The agency does not doubt that for some drivers in some segments of the trucking industry the daily times are as great as the comments suggest. However, we feel that 6.5 minutes provides a more reasonable industry-wide average of the amount of time a driver requires to complete a RODS.

FMCSA has previously estimated that a motor carrier requires 30 seconds daily per driver to file a RODS. In light of the comments received from these two organizations, we have reconsidered the assumptions we applied in developing our estimate. We now estimate that 3 minutes daily per driver are required for a motor carrier to file each RODS. We are also guided by the fact that the regulations do not require the motor carrier to review each and every RODS of its drivers; it is sufficient if the carrier develops some form of systemic review of these records, such as periodic random spot checks, to assure that they are being completed properly.

On May 2, 2000, FMCSA proposed a comprehensive revision of the HOS Rules (65 FR 25539). The agency is continuing its review of more than 50,000 comments to these proposed rules. The agency also held eight public hearings and three roundtables, and is reviewing the transcripts of these proceedings. The review is continuing.

Earlier, on April 20, 1998, FMCSA published an NPRM (63 FR 19457) in response to a statutory mandate to amend the HOS regulations by defining and describing the supporting

documents necessary to substantiate the RODS. FMCSA incorporated this NPRM, and the comments received to it, into the proposed HOS Rules.

FMCSA is proposing changes to the HOS rules because the transportation system of the United States has changed significantly over the 65 years since the current rules were promulgated. Research today indicates that under the current HOS rules, drivers do not have sufficient opportunities to get restorative sleep. There is strong evidence that new rules could substantially reduce the fatalities and injuries that occur each year because of drowsy, tired, or fatigued CMV drivers. Legislation prohibited the Department from issuing a final rule in FY 2001, but allowed all other stages of the rulemaking to proceed. The new FMCSA Administrator, recently confirmed by the Congress, will review and direct the future of this effort.

Respondents: The respondents are CMV drivers and motor carriers. The burden is imposed on both. Drivers must complete an RODS, under the Hours-of–Service rules or compatible State regulations, and submit it to the motor carrier. Motor carriers must collect and store the RODS, and review it for accuracy.

Number of Drivers

FMCSA estimates that 6,436,430 CMV drivers are required to complete RODS, whether paper or timecard. FMCSA assumes no reduction in burden for the use of EOBRs. FMCSA believes that only motor carriers with large numbers of drivers employ this technology because it is not economically feasible for medium and small sized carriers. FMCSA believes that approximately five per cent of motor carriers currently use EOBRs, and that this number is not likely to rise significantly in the absence of a regulation mandating their use. The agency feels that the EOBRs play such a minor role that no adjustments to the estimates are necessary to account for their use; all subject motor carriers and drivers will be assumed to employ either paper or timecard RODS.

The estimate of 6,436,430 drivers includes interstate drivers and intrastate drivers. This estimate is currently being used by FMCSA for estimating other pertinent information collection burdens. Intrastate drivers are included because states electing to accept Federal grants under MCSAP must enact state laws which parallel the FMCSRs. Most states have such parallel laws mandating the completion and maintenance of RODS. The collection burden imposed by those state laws is included in the Federal burden for purposes of this calculation.

The estimate of 6,436,430 drivers includes both commercial driver's license (CDL) and non-CDL drivers subject to FMCSA regulations. Data and sampling weights from the 1999 Controlled Substances and Alcohol Testing Survey were used to generate an estimate of the number of CDL drivers. An estimate of non-CDL drivers was obtained by calculating the ratio of CDL to non-CDL drivers in FMCSA's Motor Carrier Management Information System (MCMIS). FMCSA also employed figures derived from the Truck Inventory and Use Survey compiled by the Bureau of the Census, U.S. Department of Commerce. FMCSA is making other efforts to determine the number of CMV drivers, and these efforts will help the agency to define this population.

CMV drivers engage in four categories of operation, as follows:

Type of operation	Number of drivers
Long-haul	424,804
Regional	823,863
Local delivery	3,997,023
Local, services	1,190,740
Total	6,436,430

FMCSA does not report the burden hours associated with the collection of time card information because DOL reports this burden under OMB No. 1215–0017, titled, ''Records To Be Kept By Employers—FLSA.'' FMCSA believes that all ''Local, Services'' CMV drivers are eligible for, and employ, time cards. In addition, FMCSA believes that twenty-five per cent (25%) of the ''Local, delivery'' CMV drivers are eligible to use time cards. Thus the number of CMV drivers who are pertinent to these calculations is 4,246,434, as follows:

Type of operation	Number of drivers
Long-haul	424,804
Regional	823,863
Local delivery: 3,997,023 × .75 =	2,997,767
Local, services	0
Total	4,246,434

Number of Burden Hours: CMV Driver

The amount of time required to fill out a RODS varies with the number of stops and with changes in a driver's status (*e.g.*from ''on-duty driving'' to ''on-duty not driving''). FMCSA estimates that CMV drivers take an average of six minutes and thirty seconds daily to complete the RODS. FMCSA believes that CMV drivers subject to these regulations work 240 workdays per year. Six and a half minutes for each of 240 days creates a total time burden of 26 hours per year for the average CMV driver. Thus the total burden hours for CMV drivers is 110,407,284, as follows:

Number of drivers	Hours per year	Total burden hours
4,246,434	26	110,407,284

Number of Burden Hours: Motor Carrier

Motor carriers are required to retain RODS for a period of six months (49 CFR 395.8(k)). The motor carrier must also systematically review the RODS of its drivers to ensure that they are complete and accurate (49 CFR 395.8(e)). FMCSA estimates a motor carrier spends an average of three minutes per driver per day complying with these requirements. Three minutes for each of 240 days creates a total time burden for motor carriers of 12 hours per year for each CMV driver. Thus the total burden hours for motor carriers is 50,957,208, as follows:

Number of drivers	Hours per year	Total burden hours
4,246,434	12	50,957,208

Total Burden Hours

The estimated annual burden of this information collection, for both the CMV driver and the motor carrier, is 161,364,492 burden hours, as follows:

Total burden hours: driver	Total burden hours: carrier	Total burden hours
110,407,284	50,957,208	161,364,492

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: December 20, 2001.

Joseph M. Clapp,

Administrator.

[FR Doc. 02–664 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–11055]

Motor Carrier Safety Research and Technology: Second Annual Workshop

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public meeting; workshop participation; request for comments.

SUMMARY: This notice invites participation in a workshop addressing issues related to safety and security in Motor Carrier Safety Research and Technology Development Program and requests comment from those unable to attend the workshop. The workshop is being sponsored by FMCSA's Office of Research and Technology. It will be held at the close of the Transportation Research Board's Annual Meeting on January 17, 2002, in Washington, DC. The workshop will promote discussion of the accomplishments of the Office of Research and Technology since the Transportation Research Board's annual meeting of 2001; facilitate the sharing of information regarding specific research and technology projects completed during the 2001 calendar year; and provide a forum for interested parties to discuss their views regarding the planned or proposed projects in the area of research and technology.

DATES: The meeting and workshop will be held on Thursday, January 17, 2002, from 8:30 a.m. to 5:00 p.m. If you would like your comments to be available by the date of the meeting, submit the comments to the DOT Docket Clerk as described below by January 13, 2002. If you are unable to attend the meeting, comments should be submitted to the DOT Docket Clerk before January 31, 2002.

ADDRESSES: The meeting and workshop will be held at the Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008. Mail comments to Docket Clerk, U.S. DOT Dockets Management Facility, Room PL–401, 400 7th Street, SW., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Alvarez, Office of Research and Technology, (202) 358–5684, Federal Motor Carrier Safety Administration, 400 Virginia Avenue, SW., Suite 600, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access or Filing

Internet users can submit or review comments online through the Document Management System (DMS) website at: *http://dmses.dotgov.* Detailed information on the workshop and Program areas is available at *www.volpe.dot.gov/outreach/fmcsatrb.* Participants can pre-register for the workshop at the Transportation Research Board website: *www.trb.org/trb/meeting.*

The Federal Motor Carrier Research and Technology Development Program supports FMCSA safety activities and initiatives through the discovery, application, and dissemination of new knowledge (research); and the assessment, development, deployment, and promotion of new devices and systems (technology).

The Workshop Agenda will include:

1. Plenary Session
2. Accomplishment reports on the five program areas
3. Box Lunch
4. Breakout Sessions in the five program areas regarding planned or proposed future projects
5. Wrap-up and Evaluations

Meeting and workshop attendance is open to the public, but is limited in space. For the morning Workshop Plenary Session there is no limit on space. Seating for the afternoon Breakout Sessions will be on a first-come basis. The registration for an entire day includes a lunch fee.

For information on facilities or services for individuals with disabilities, or to request special assistance or meals at the meetings, contact Delores Hilton, Transportation Research Board (202) 334–2960.

Comments from those who attend the meeting and workshop will be transcribed. A copy of the transcript will be placed in the public docket. Feedback from all parties will be used as the basis for a final Workshop Report. The report will also be available to the public at the Volpe website which has information on the workshop.

If you wish to submit written comments or statements concerning the meeting and this notice, submit the information to the public docket listed at the top of this notice.

Issued on: January 7, 2002.

Joseph M. Clapp,

Administrator.

[FR Doc. 02–658 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2002–11283]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Rita Jackson, Maritime Administration, MAR–250, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–0284 or FAX 202–493–2288.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Request for Waiver of Service Obligation; Request for Deferment of Service Obligation; Application for Review of Waiver/Deferment Decisions.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0510.

Form Numbers: MA–935; MA–936; MA–937.

Expiration Date of Approval: June 30, 2002.

Summary of Collection of Information: In accordance with U.S.C. 12959, MARAD requires approved maritime training institutions seeking excess or surplus property to provide a statement of need/justification prior to acquiring the property.

Need and Use of the Information: This information collection is used by the requestor to provide a justification of the intended use of the surplus property, and is needed by MARAD to determine compliance with applicable statutory requirements.

Description of Respondents: Maritime training institutions.

Annual Responses: 61.

Annual Burden: 20½ hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the

Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: January 7, 2002.

Joel C. Richard,

Secretary.

[FR Doc. 02–648 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–11282]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FELLOWSHIP.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before February 11, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–11282. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: FELLOWSHIP. *Owner:* Nels Erik & Tina Marie Jensen.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''75′ in length. Tonnage per document is 113 gross and 90 net.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:

''Naturalist guided, day only, eco-excursion for groups of 12 passengers to San Juan Islands National Wildlife Reserve, San Juan Islands, Washington State.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* Unknown. Place of construction: Unknown.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''I do not feel we would impact any existing commercial sightseeing, whale watching, or tourist operator whatsoever. These are larger commercial ventures that appeal to an entirely different clientelle.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''* * * I used Seattle and Northwest shipyards to restore this vessel and I plan to continue to use the same for yearly haulouts and repairs.* * * I can only see a benefit and therefore a positive impact on our local shipyards and respective local economy* * *''

Dated: January 7, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–649 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–10312; Notice 2]

Michelin North America, Inc.; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Michelin North America, Inc., (Michelin), determined that approximately 173,800 205/55R16 Michelin Energy MXV4+ tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.'' FMVSS No. 109 requires that each tire shall have permanently molded into or onto both sidewalls the generic name of each cord material used in the plies of the tire (S4.3 (d)).

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Notice of receipt of the application was published, with a 30-day comment period, on August 9, 2001, in the **Federal Register** (66 FR 41931). NHTSA received no comments on this application. During the period of the 4th week of 2000 through the 9th week of 2001, the subject tires were produced and cured with the erroneous marking. Instead of the required marking of:

Tread Plies − 2 Polyester + 2 Steel + 1 Polyamide, Sidewall Plies − 2 polyester, the tires were marked: Tread Plies − 2 Rayon + 2 Steel + 1 Polyamide, Sidewall Plies − 2 Rayon. Of the total, approximately 162,500 tires may have been delivered to customers. The remaining tires have been identified in Michelin's warehouse.

Michelin stated that these tires meet or exceed all FMVSS No. 109 performance requirements and, therefore, this noncompliance is inconsequential as it relates to motor vehicle safety.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act of November 2000 required, among other things, that the agency initiate rulemaking to improve tire label information. In response to Section 11 of the TREAD Act, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The agency received more than 20 comments addressing the ANPRM, which sought comments on the tire labeling information required by 49 CFR 571.109 and 571.119, part 567, part 574, and part 575. Most of the comments were from motor vehicle and tire manufacturers, although several private citizens and consumer interest organizations responded to the ANPRM. With regard to the tire construction (number of plies and type of ply cord material in the tread and sidewall) labeling requirements of FMVSS 109, paragraphs S4.3 (d) and (e), most comments indicated that the information was of little or no safety value to consumers. However, the tire construction information is valuable to the tire re-treading, repair, and recycling industries, according to several trade groups representing tire manufacturing. The International Tire and Rubber Association, Inc., (ITRA) indicated that the tire construction information is used by tire technicians to determine the steel content of a tire so that proper retread, repair, and recycling procedures can be selected.

In addition to the written comments solicited by the ANPRM, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perception and understanding of tire labeling. Few of the focus group participants had knowledge of tire label information beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we believe that it is likely that few consumers are influenced by the tire construction information (i.e., the number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire. However, the tire repair, retread, and recycling industries use the tire construction information.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered. Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgment, specifying rayon instead of polyester for tire construction will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. The agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries, according to ITRA. In this case, the fact that steel is used in the tread construction of the tires appears on the sidewalls. In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Michelin's application is granted and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: January 4, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–656 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34142]

Bethlehem Steel Corporation—Corporate Family Transaction Exemption

Bethlehem Steel Corporation (BSC), a noncarrier holding company, has filed a verified notice of exemption. As part of an overall corporate restructuring, BSC is forming six new limited liability company subsidiaries (LLCs) to merge with and succeed to the rights of six of BSC's existing subsidiary Class III rail carriers. BSC will continue to control the LLCs.[1]

The transaction was to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed.) The corporate restructuring will provide tax benefits to BSC, eliminate the filing of certain tax returns, and provide other administrative benefits.

BSC's control of the LLCs and the conversion of the six existing BSC rail carriers to LLCs through mergers are transactions within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). BSC states that the transaction will not result in adverse changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

[1] The six BSC subsidiary railroads are as follows: Brandywine Valley Railroad Company, operating in the States of Pennsylvania and Delaware; Upper Merion and Plymouth Railroad Company, operating in the State of Pennsylvania; Conemaugh & Black Lick Railroad Company, operating in the State of Pennsylvania; Keystone Railroad, Inc., operating in the State of Pennsylvania; Steelton & Highspire Railroad Company, operating in the State of Pennsylvania; and Patapsco & Back Rivers Railroad Company, operating in the State of Maryland. The instant corporate family transaction is related to six concurrently filed verified notices of exemption: STB Finance Docket No. 34154, *Brandywine Valley Railroad Company LLC—Acquisition and Operation Exemption-Brandywine Valley Railroad Company*; STB Finance Docket No. 34155, *Upper Merion and Plymouth Railroad Company LLC—Acquisition and Operation Exemption-Upper Merion and Plymouth Railroad Company*; STB Finance Docket No. 34156, *Conemaugh & Black Lick Railroad Company LLC—Acquisition and Operation Exemption-Conemaugh & Black Lick Railroad Company*; STB Finance Docket No. 34157, *Keystone Railroad LLC—Acquisition and Operation Exemption-Keystone Railroad, Inc.*; STB Finance Docket No. 34158, *Steelton & Highspire Railroad Company LLC—Acquisition and Operation Exemption-Steelton & Highspire Railroad Company*; and STB Finance Docket No. 34159, *Patapsco & Back Rivers Railroad Company LLC—Acquisition and Operation Exemption-Patapsco & Back Rivers Railroad Company.*

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34142, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–537 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34154]

Brandywine Valley Railroad Company LLC—Acquisition and Operation Exemption—Brandywine Valley Railroad Company

Brandywine Valley Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Brandywine Valley Railroad Company (Brandywine) [1] and operate the following rail lines: (1) Between milepost 12.7, at the Delaware/Pennsylvania state line and milepost 30.29, at Modena, PA, a distance of 17.59 miles; [2] (2) Between milepost 18.0, at Wawa, PA, and milepost 54.50, at the Pennsylvania/Maryland state line near Sylmar, MD, a distance of 36.50 miles; [3] and (3) between milepost 12.7, at the Delaware/Pennsylvania border and milepost 2.9, at Elsmere Jct., DE, a distance of 9.8 miles.[4]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption*, STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which Brandywine is to be merged into Applicant. The separate existence of Brandywine will cease and Applicant will be the surviving entity and continue the operations formerly provided by Brandywine.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34154, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–540 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Both Applicant and Brandywine are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] *See Brandywine Valley Railroad Company-Acquisition Exemption-Pennsylvania Department of Transportation*, STB Finance Docket No. 34141 (STB served Jan. 8, 2002).

[3] *See Brandywine Valley Railroad Company-Modified Rail Certificate*, STB Finance Docket No. 33722 (STB served Apr. 16, 1999).

[4] *See Certificate of Designated Operator, Brandywine Valley Railroad Company*, STB D-OP No. 100 (STB served June 10, 1999).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34156]

Conemaugh & Black Lick Railroad Company LLC—Acquisition and Operation Exemption—Conemaugh & Black Lick Railroad Company

Conemaugh & Black Lick Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Conemaugh & Black Lick Railroad Company (CBL) [1] and operate a 32-mile rail line in Cambria County, PA.[2]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which CBL is to be merged into Applicant. The separate existence of CBL will cease and Applicant will be the surviving entity and continue the operations formerly provided by CBL.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34156, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

[1] Both Applicant and CBL are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–532 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34157]

Keystone Railroad LLC—Acquisition and Operation Exemption—Keystone Railroad, Inc

Keystone Railroad LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 132-mile rail line in Northampton County, PA,[1] owned by its corporate affiliate Keystone Railroad, Inc. (Keystone).[2]

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which Keystone is to be merged into Applicant. The separate existence of Keystone will cease and Applicant will be the surviving entity and continue the operations formerly provided by Keystone.[3]

The transaction was expected to be consummated as of January 1, 2002. Applicant states that its revenues are expected to exceed $5,000,000 per year. Under 49 CFR 1150.32(e), ''If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.'' When Applicant filed its verified notice of exemption in STB Finance Docket No. 34157, it simultaneously filed a request for a waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of Keystone, by decision served on December 27, 2001, the Board granted Applicant's request and waived the requirements of 49 CFR 1150.32(e). That decision had the effect of making the exemption in this proceeding effective on December 27, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34157, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–533 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34140]

Lake Michigan & Indiana Railroad Company LLC—Acquisition and Operation Exemption—Keystone Railroad, Inc.

Lake Michigan & Indiana Railroad Company LLC (LMIC), a noncarrier at the time of the transaction described in this notice, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 66-mile rail line in Burns Harbor, Porter County, IN,[1] previously leased by its corporate affiliate Keystone Railroad, Inc. (Keystone).[2]

LMIC states that it took over the lease from Keystone and commenced operations on the rail line in October 2001, pursuant to an exemption it received in *Bethlehem Steel Corporation, Keystone Railroad, Inc., and Lake Michigan & Indiana Railroad Company LLC—Corporate Family Transaction Exemption*, STB Finance Docket No. 34101 (STB served Oct. 25, 2001). LMIC notes that it filed its notice of exemption in STB Finance Docket No. 34140 after the Board's staff informed LMIC that, as a newly formed noncarrier, an exemption from the requirements of 49 U.S.C. 10901 was needed as well.

LMIC states that its revenues are expected to exceed $5,000,000 per year. Under 49 CFR 1150.32(e), ''If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.'' When LMIC filed its verified notice of exemption in STB Finance Docket No. 34140, it simultaneously requested a waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of Keystone, by decision served on December 27, 2001, the Board granted LMIC's request and waived the requirements of 49 CFR 1150.32(e). That decision had the effect of making the exemption in this proceeding effective on December 27, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34140 must be filed with the

[1] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

[2] Both Applicant and Keystone are wholly owned subsidiaries of Bethlehem Steel Corporation.

[3] The verified notice of exemption indicates that Keystone currently conducts operations under its historic trade name of Philadelphia Bethlehem and New England Railroad and that Applicant will continue to use the same trade name.

[1] LMIC states that the rail line is composed of former yard and switching tracks and does not have assigned mileposts.

[2] Both Keystone and LMIC are wholly owned subsidiaries of Bethlehem Steel Corporation.

Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–538 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34137]

Chicago SouthShore & South Bend Railroad—Trackage Rights Exemption—National Railroad Passenger Corporation (AMTRAK)

National Railroad Passenger Corporation (AMTRAK), has agreed to grant local trackage rights to Chicago SouthShore & South Bend Railroad (CSS&SB). The trackage rights extend over approximately 2.7 miles of track from the turnout at approximately milepost 226.1 to the industrial lead at approximately milepost 228.8, all in or near Michigan City, IN.[1]

The transaction was scheduled to be consummated on or after December 28, 2001, the effective date of the exemption.

The purpose of the trackage rights is to enhance competition and to enable CSS&SB to provide service to two current customers on the line and other customers who locate on the line in the future.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34137, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Troy W. Garris, Weiner Brodsky Sidman Kider PC, Fifth Floor, 1300 19th Street, NW., Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: January 4, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–659 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34159]

Patapsco & Back Rivers Railroad LLC—Acquisition and Operation Exemption—Patapsco & Back Rivers Railroad Company

Patapsco & Back Rivers Railroad LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 183-mile rail line in Baltimore County, MD,[1] owned by its corporate affiliate Patapsco & Back River Railroad Company (Patapsco).[2]

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which Patapsco is to be merged into Applicant. The separate existence of Patapsco will cease and Applicant will be the surviving entity and continue the operations formerly provided by Patapsco.

The transaction was expected to be consummated as of January 1, 2002. Applicant states that its revenues are expected to exceed $5,000,000 per year. Under 49 CFR 1150.32(e), ''If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.'' When Applicant filed its verified notice of exemption in STB Finance Docket No. 34159, it simultaneously filed a request for a waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of Patapsco, by decision served on December 27, 2001, the Board granted Applicant's request and waived the requirements of 49 CFR 1150.32(e). That decision had the effect of making the exemption in this proceeding effective on December 27, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34159, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–536 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] A redacted version of the Trackage Rights Agreement between AMTRAK, and CSS&SB (agreement) was filed with the verified notice of exemption. An unredacted version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with the motion for a protective order. This motion was granted in a separate decision served in this proceeding on January 7, 2002.

[1] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

[2] Both Applicant and Patapsco are wholly owned subsidiaries of Bethlehem Steel Corporation.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34158]

Steelton & Highspire Railroad Company LLC—Acquisition and Operation Exemption—Steelton & Highspire Railroad Company

Steelton & Highspire Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Steelton & Highspire Company (SH) [1] and operate a 47-mile rail line in Dauphin County, PA.[2]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption*, STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which SH is to be merged into Applicant. The separate existence of SH will cease and Applicant will be the surviving entity and continue the operations formerly provided by SH.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34158, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

[1] Both Applicant and SH are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–535 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34155]

Upper Merion and Plymouth Railroad Company LLC—Acquisition and Operation Exemption—Upper Merion and Plymouth Railroad Company

Upper Merion and Plymouth Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Upper Merion and Plymouth Railroad Company (UMP) [1] and operate an 11-mile rail line in Montgomery County, PA.[2]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which UMP is to be merged into Applicant. The separate existence of UMP will cease and Applicant will be the surviving entity and continue the operations formerly provided by UMP.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34155, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–541 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Both Applicant and UMP are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 2, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 11, 2002, to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0008.

Regulation Parts: 31 CFR 103.33.

Type of Review: Extension.

Title: Conditional Exception to the Application of 31 CFR 103.33(g).

Description: FinCEN Notice 1998–1 provides two conditional exceptions to the information requirements of 31 CFR 103.33(g) (the ''Travel Rule''). Banks and brokers and dealers in securities would use the exceptions.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Reporting—3 minutes
Recordkeeping—15 minutes

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,500 hours.

Clearance Officer: Lois K. Holland, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220, (202) 622–1563.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office

Building, Washington, DC 20503, (202) 395–7860.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 02–566 Filed 1–9–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, January 25, 2002, starting at 8:45 a.m., 740 15th Street, Suite 700, Washington, DC. The duration of the meeting will be approximately four hours.

FOR FURTHER INFORMATION CONTACT: Gordana S. Earp, Deputy Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0336.

At this meeting, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda:

(1) Report on the work of the COAC sub-committee on Border Security and COAC recommendations.

(2) Status of proposed re-design of the Office of Rules & Regulations.

(3) Merchandise Processing Fee.

(4) Review of issues and priorities for 2002.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: January 4, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 02–602 Filed 1–9–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities; Proposed Revision of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, Board, FDIC, and OTS (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed revisions to a continuing information collection, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies are soliciting comments on proposed revisions to the information collection titled: ''Interagency Bank Merger Act Application.'' Additionally, the OCC is making other clarifying changes to the Comptroller's Corporate Manual.

DATES: You should submit written comments by March 11, 2002.

ADDRESSES: Interested parties are invited to submit comments to any or all of the Agencies. All comments, which should refer to the OMB control number, will be shared among the Agencies:

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1–5, Attention: 1557–0014 (BMA), Washington, DC 20219. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043. In addition, you may fax your comments to (202) 874–4448 or e-mail them to *regs.comments@occ.treas.gov.*

Board: Written comments may be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by electronic mail to *regs.comments@federalreserve.gov,* or faxing them to the Office of the Secretary at 202–452–3819 or 202–452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in room M–P–500 between 9 a.m. and 5 p.m., on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), Office of Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to ''Interagency Bank Merger Act Application.'' Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention: 1550–0016, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You may request additional information from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. For subject matter information, you may contact Cheryl Martin at (202) 874–4614, Licensing, Policy, and Systems, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380; Frances C. Augello, Senior Counsel, Business Transactions Division, (202) 906–6151; Patricia D. Goings, Regulatory Analyst, Examination Policy, (202) 906–5668; or Damon C. Zaylor, Regulatory Analyst, Examination Policy, (202) 906–6787, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Proposal to extend for three years, with revision, the following currently approved collection of information:

Report Title: Interagency Bank Merger Act Application.

OCC's Title: Comptroller's Corporate Manual (Manual). The specific portions of the Manual covered by this notice are those that pertain to the Business Combinations booklet of the Manual and various portions to which the OCC is making technical and clarifying changes.

OMB Numbers:

OCC: 1557–0014.

Board: 7100–0171.

FDIC: 3064–0015.

OTS: 1550–0016.

Form Numbers:

OCC: None.

Board: FR 2070.

FDIC: 6220/01 and 6220/07.

OTS: 1639.

Affected Public: Individuals or households; Businesses or other for-profit.

Type of Review: Review of a currently approved collection.

Estimated Number of Respondents:

OCC: Nonaffiliate—120; Affiliate—260.

Board: Nonaffiliate—57; Affiliate—79.

FDIC: Nonaffiliate—200; Affiliate—150.

OTS: Nonaffiliate—16; Affiliate—0.

Frequency of Response: On occasion.

Estimated Annual Burden Hours per Response:

OCC: Nonaffiliate—30; Affiliate—18.

Board: Nonaffiliate—30; Affiliate—18.

FDIC: Nonaffiliate—30; Affiliate—18.

OTS: Nonaffiliate—30; Affiliate—18.

Estimated Total Annual Burden Hours:

OCC: Nonaffiliate—3,600; Affiliate—4,680. Total: 8,280 burden hours.

Board: Nonaffiliate—1,710; Affiliate—1,422. Total: 3,132 burden hours.

FDIC: Nonaffiliate—6,000; Affiliate—2,700. Total: 8,700 burden hours.

OTS: Nonaffiliate—480; Affiliate—0. Total: 480 burden hours.

General Description of Report: This information collection is mandatory. 12 U.S.C. 1828(c) (OCC, FDIC, and OTS), and 12 U.S.C. 321, 1828(c), and 4804 (Board). Except for select sensitive items, this information collection is not given confidential treatment. Small businesses, that is, small institutions, are affected.

Abstract: This submission covers a revision to the Agencies' merger application form for both affiliated and nonaffiliated institutions. The form's title is the Interagency Bank Merger Act Application. The Agencies need the information to ensure that the proposed transactions are permissible under law and regulation and are consistent with safe and sound banking practices. The Agencies are required, under the Bank Merger Act, to consider financial and managerial resources, future prospects, convenience and needs of the community, community reinvestment, and competition.

Some agencies collect limited supplemental information in certain cases. For example, the OCC and OTS collect information regarding CRA commitments, the Federal Reserve collects information on debt servicing from certain institutions, and the FDIC requires additional information on the competitive impact of proposed mergers.

Current Actions: Section 307(c) of the Gramm-Leach-Bliley Act (GLBA) requires the appropriate Agency to consult with the appropriate state insurance regulator prior to making any determination relating to the initial affiliation of, or the continuing affiliation of, a depository institution with a company engaged in insurance activities. As a result, the Agencies propose to add an item to the form to collect information on the name of the affiliated insurance company; a description of its insurance activities; each state and the lines of business in each state in which the company holds, or will hold, an insurance license; and the state where the company holds a resident license or charter, as applicable. Additionally, the General Instructions contain technical corrections to make them uniform with the proposed revisions to the ''Interagency Charter and Federal Deposit Insurance Application'' form.

Further, the OCC is making a change to its Business Combinations booklet of the Manual by adding the interagency application form and providing updated information about filing for a merger. These changes are not material and are technical in nature. These changes are an administrative adjustment, and do not change, in any way, the requirements on national banks.

Comments: Comments submitted in response to this notice will be summarized in each Agency's request for OMB approval, and analyzed to determine the extent to which the collection should be modified. All comments will become a matter of public record.

Written comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 1, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, January 3, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 1st day of November, 2001.

Robert E. Feldman,

Executive Secretary.

Dated: October 4, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.

[FR Doc. 02–643 Filed 1–9–02; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

Notices

Federal Register

Vol. 67, No. 7

Thursday, January 10, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–045N]

Codex Alimentarius Commission: 3rd Session, Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), are sponsoring two public meetings on Wednesday, January 9, 2002, and on Tuesday, February 12, 2002, to present and receive comment on draft United States positions on all issues coming before the *3rd* Session of the Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology, which will be held in Yokohama, Japan, March 4–8, 2002. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 3rd Session, Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology.

DATES: The public meetings are scheduled for Wednesday, January 9, 2002 from 1 p.m. to 4 p.m., and Thursday, February 12, 2002 from 1 p.m. to 4 p.m.

ADDRESSES: The public meetings will be held in Conference Room 1409, Federal Office Building 8, 200 C Street, SW., Washington, DC 20204. To review copies of the documents referenced in this notice, contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/ccfbt3/bt0201e.htm* Send comments, in triplicate, to the FSIS Docket Room and reference Docket #01–045N. Commenters should reference the document relevant to their comments. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, Telephone (202) 205–7760, Fax (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Clerkin at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. The Commission, at its 23rd Session, established the Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology to develop standards, guidelines, or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate, to other legitimate factors relevant to the health of consumers and the promotion of fair trade practices. The Task Force is chaired by the government of Japan.

Issues To Be Discussed at the Public Meeting

The provisional agenda items and the relevant documents to be discussed during the public meeting are:

1. Matters Referred to the Task Force by Other Codex Committees; Document CX/FBT 02/2

2. Matters of Interest from Other International Organizations with respect to the Evaluation of the Safety and Nutrition Aspects of Foods Derived from Biotechnology; Document CX/FBT 02/3

3. Consideration of Draft Principles for the Risk Analysis of Foods Derived from Modern Biotechnology, at Step 7; Document ALINORM 01/34A Appendix II; Government Comments at Step 6; Document CX/FBT 02/4

4. Draft Guidelines and Annex

(a) Consideration of Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants at Step 7; Document ALINORM 01/34A Appendix III;

—Government Comments at Step 6; Document CX/FBT 02/5;

—Proposed Revised Text on the Section Entitled ''Assessment of Possible Toxicity'' from the Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants; Document CL 2001/38–FBT, Annex II;

—Response to Questions from the Chair of the Task Force put forward for consideration by the Working Group; Document CL 2001/38–FBT, Annex II;

—Government Comments on the above two documents (CL 2001/38–FBT Annex II and Annex III) at Step 6; Document CX/FBT 02/5 Add.1;

(b) Consideration of Proposed Draft Annex on the Assessment of Possible Allergenicity of the Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants at Step 4; Document CL 2001/38–FBT, Annex I

—Government Comments at Step 3; Document CX/FBT 02/6

5. Consideration of Proposed Draft Guideline for the Conduct of Food Safety Assessment of Recombinant-DNA Microorganisms in Food at Step 4; Document CX/FBT 02/7;

—Government Comments at Step 3; Document CX/FBT 02/7 Add.1

6. Discussion Papers on Traceability; Document CL 2001/27–FBT;

—Government Comments; Document CX/FBT 02/8

7. Consideration of Analytical Methods; Document CX/FBT 02/9

8. Other Business, Future Work and Date and Place of Next Session

In advance of these meetings, the U.S. Delegate to the Task Force will have assigned responsibility for development of U.S. positions on these issues to members of government. The individuals assigned responsibility will be named at this meeting and will take comment on and develop draft U.S positions. All interested parties are invited to provide information and comments on the above issues, or on any other issues that may be brought before the Task Force.

Public Meeting

At the January 9th public meeting, the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. At the February 12th public meeting, draft United States' positions on the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may also be sent to the FSIS Docket Room (see **ADDRESSES**). Please state that your comments relate to Task Force activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: January 8, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 02–739 Filed 1–8–02; 1:15 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Moose Post Fire Project, Flathead National Forest, Flathead County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; Intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for a proposal to manage forest resources within and adjacent to the Moose Fire affected area, which burned 70,000 acres in August–September of 2001 (approximately 35,000 acres burned on lands administrated by the Forest Service). The project area is on the Glacier View Ranger District, Flathead National Forest, and is bordered on the east by Glacier National Park and the North Fork of the Flathead River, on the north by the Coal Creek State Forest, and on the west by the Whitefish Divide. The city of Columbia Falls, Montana is located about 10 air miles to the southeast.

DATES: Comments concerning the scope of the analysis should be received in writing on or before 30 days after publication of this notice in the **Federal Register**. The draft EIS is expected to be filed with the Environmental Protection Agency and made available for public review in May 2002. No date has yet been determined for filing the final EIS.

ADDRESSES: Send written comments to Jimmy DeHerrera, District Ranger, P.O. Box 190340, Hungry Horse, Montana 59919 or call (406) 387–3800.

FOR FURTHER INFORMATION CONTACT: Michele Draggoo, Planning Team Leader, (406) 387–3827.

SUPPLEMENTARY INFORMATION: The Moose Fire created a situation that is very favorable for the development of spruce beetle and Douglas-fir beetle epidemic conditions. The fire severely weakened or killed large numbers of spruce and Douglas-fir, and the beetles are well adapted to capitalize on such events. Spruce bark beetles were found in endemic levels prior to the fire and Douglas-fir bark beetles were building in several areas across the Flathead National Forest including in the vicinity of the Moose Fire area.

Beetle numbers can rapidly build when they are suddenly presented with abundant food and breeding habitat such as provided by the many acres of dead and stressed trees within the Moose Fire area. Once the adult beetles emerge from the fire stressed trees, they will search for the next nearest source of food. They are capable of flying about five miles in search of habitat, thus posing a very real threat to mature, larger diameter spruce and Douglas-fir trees outside the fire area.

Fire killed trees in the Moose Fire area have already started falling and will continue to come down over the next 15-20 years. This will result in extremely heavy fuel loads adjacent to private property and the administrative sites. If a fire does occur in these areas, the fuel accumulations, fuel continuity and profile would make the fire difficult to contain and control. A large high intensity fire would likely again threaten or burn private property, administrative sites and valuable forest resources.

Fire-killed trees also do not typically maintain their merchantability as wood products for more than 1 to 3 years, depending on their species and size. Sapwood staining, checking, woodborer damage, and decay will deleteriously affect volume after that time. Smaller diameter trees typically will not be merchantable within a year while larger diameter trees can retain their merchantability longer but will lose their value as wood products as time goes on. Removing an appropriate amount of fire-affected trees while considering ecological needs, before they lose their timber value and starting the reforestation process helps facilitate meeting desired conditions within the Moose Fire Project area.

The proposed action includes the following resource management activities: salvage trees that were burned on approximately 4300 to 5300 acres; use a combination of pheromone baiting, trap trees, and funnel trees to help address existing and future spruce bark beetle and Douglas-fir bark beetle concerns; and the reduce fuels in urban/interface and administrative site areas. Approximately 1000 acres are proposed for salvage in inventoried roadless lands. Planting conifer seedlings and making sure that best management practices would be maintained on roads used for the salvage would also be included in this project. Additionally, road access would be changed in two grizzly bear subunits to meet the Flathead Forest Plan's Amendment 19 ten-year goals and objectives, relative to

grizzly bear security. Approximately 22 miles of open yearlong/seasonally open road would be restricted yearlong within the Werner Creek and Lower Big Creek grizzly bear subunits. Also, approximately 57 miles of road would be decommissioned in both grizzly bear subunits.

The purpose and need for the actions are to: decrease potential mortality cause by bark beetles to remaining live Douglas-fir and spruce trees within and outside the Moose fire are; recover merchantable wood fiber affected by the Moose Fire in timely manner to support local communities and contribute to the long-term yield of forest products; and to reduce future fire risk and hazard by reducing future fuel accumulations caused by the Moose Fire adjacent to private property or administrative sites.

This EIS will tier to the Flathead National Forest Land and Resource Management Plan and EIS of January 1986, and its subsequent amendments, which provide overall guidance for land management activities on the Flatheads National Forest.

Preliminary issues and concerns include effects of treatments on inventoried roadless lands, effects of treatments on riparian areas, effects of treatments on recreational motorized access, and effects of treatments on threatened/endangered species such as bull trout and grizzly bears.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Responsible Official is the Forest Supervisor of the Flathead National Forest, 1935 3rd Avenue East, Kalispell, Montana 59901. The Forest Supervisor will make a decision regarding this proposal considering the comments and response, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies. The decision and rationale for the decision will be documented in a Record of Decision. That decision will be subject to appeal under applicable Forest Service regulations.

Dated: January 4, 2002.

Cathy Barbouletos,

Forest Supervisor—Flathead National Forest.

[FR Doc. 02–612 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Notice of Availability of Observer Coverage Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Observer Coverage Plan for the Pacific Coast Groundfish Fishery.

SUMMARY: NMFS announces availability of the Observer Coverage Plan for the Pacific Coast Groundfish Fishery pursuant to Amendment 13 (bycatch provisions) to the Pacific Coast Groundfish Fishery Management Plan (FMP).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and e-mail: *yvonne.dereynier@noaa.gov, becky.renko@noaa.gov*. Copies of the Observer Coverage Plan may also be obtained from these contacts.

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the Federal Register: *http://www.access.gpo.gov/su-docs/aces/aces140.html.* The Observer Coverage Plan is accessible at *http://www.nwfsc.noaa.gov/fram/Observer* .

SUPPLEMENTARY INFORMATION: NMFS approved Amendment 13 to the Pacific Coast Groundfish FMP on December 21, 2000. Amendment 13 implements the bycatch requirements of the Sustainable Fisheries Act Amendments of 1996. Among other things, Amendment 13 authorizes an at-sea observer program in fulfillment of the requirement that a standardized reporting methodology for bycatch be established. Federal funding was obtained, and the observer program was initiated in August 2001.

Amendment 13 states that details of how observer coverage will be distributed across the West Coast groundfish fleet will be described in an observer coverage plan and that NMFS will publish an announcement of the authorization of the observer program and description of the observer coverage plan in the **Federal Register**. To comply with this requirement, the Northwest Fisheries Science Center developed an initial Observer Coverage Plan (Sampling Plan and Logistics for the West Coast Groundfish Observer Program (WCGOP), Fall 2001), which may be obtained from the individuals listed under **FOR FURTHER INFORMATION CONTACT** section. The plan outlines the initial goals and methodology of the WCGOP, and describes the initial observer deployments. The program is expected to evolve as it progresses, and new information becomes available.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 7, 2002.

Jon Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–647 Filed 1–9–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request under the United States-Caribbean Basin Trade Partnership Act (CBTPA).

January 7, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a determination that certain shirting fabrics, for use in blouses, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On January 4, 2002 the Chairman of CITA received a petition from School Apparel, Inc. alleging that certain shirting fabrics, classified in subheadings 5210.21 and 5210.31 of the Harmonized Tariff Schedule of the United States (HTSUS), used in the production of women's and girls' blouses, cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that blouses of such fabrics be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether such shirting fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by January 25, 2002 to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Contact: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also authorizes quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures in the **Federal Register** that it will follow in considering requests. (66 FR 13502).

On January 4, 2002 the Chairman of CITA received a petition from School Apparel, Inc., alleging that certain shirting fabrics, specifically fabrics of subheadings 5210.21 and 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for women's and girls' blouses that are both cut and sewn in one or more CBTPA beneficiary countries from such fabrics.

CITA is soliciting public comments regarding this request, particularly with respect to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabrics for purposes of the intended use. Comments must be received no later than January 25, 2002. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that these shirting fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabrics stating that it produces the fabrics that are the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–691 Filed 1–8–02; 11:06 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request under the United States-Caribbean Basin Trade Partnership Act (CBTPA)

January 7, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a request for a determination that yarns of combed cashmere, cashmere blends and camel hair cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On January 4, 2002 the Chairman of CITA received a petition from Warren Corporation, alleging that yarn of combed cashmere, cashmere blends, and camel hair, classified in subheading 5108.20.60 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. Warren Corporation requests that apparel articles of U.S. formed fabric of such yarn be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether yarn of combed cashmere, cashmere blends, or camel hair can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by January 25, 2002 to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, United States Department of Commerce, 14th

and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Contact: Martin J. Walsh, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also authorizes quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures in the **Federal Register** that it will follow in considering requests. (66 FR 13502).

On January 4, 2002 the Chairman of CITA received a petition from Warren Corporation, alleging that yarn of combed cashmere, cashmere blends, and camel hair, classified in HTSUS subheading 5108.20.60 cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from U.S. formed fabric of such yarn.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the yarn for purposes of the intended use. Comments must be received no later than January 25, 2002. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that yarn of combed cashmere, cashmere blends or camel hair can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–692 Filed 1–8–02; 11:06 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Request of the Chicago Board of Trade (CBOT) for Product Approval of CBOT X-Fund Futures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of terms and conditions of commodity futures contract.

SUMMARY: The Chicago Board of Trade (CBOT or Exchange) has requested that the Commission approve a new product, CBOT X-fund futures, pursuant to the provisions of section 5c(c)(2)(A) of the Commodity Exchange Act as amended. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by the Commission Regulation 140.96, has determined that public comment on the propose product is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before January 25, 2002.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov.* Reference should be made to the CBOT X-Fund futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Richard Shilts of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: *Manalysis@cftc.gov*

SUPPLEMENTARY INFORMATION: Copies of the terms and condition of the X-Fund futures contract, as well as additional information about the contract, are available on the CBOT Web site at: *http://www.CBOT.com/cbot/www/cont_modular/1,2291,14+56+13,00.html.*

Other materials submitted by the CBOT in support of the request for product approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (2000)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBOT should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 3, 2002.

Richard A. Shilts,

Acting Director.

[FR Doc. 02–590 Filed 1–9–02; 8:45 am]

BILLING CODE 8351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: the Defense Science Board (DSB) Task Force on Chemical Warfare Defense will meet in closed session on January 23, 2002, at SAIC, Inc., 4001 N. Fairfax Drive, Arlington, VA. The Task Force will assess the possibility of controlling the risk and consequences of a chemical warfare (CW) attack to acceptable national security levels within the next five years.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will assess current national security and military objectives with respect to CW attacks; CW threats that significantly challenge these objectives today and in the future; the basis elements (R&D, materiel, acquisition, personnel, training, leadership) required to control risk and consequences to acceptable levels, including counter-proliferation; intelligence, warning, disruption; tactical detection and protection (active and passive); consequence management; attribution and deterrence; and policy. The Task Force will also assess the testing and evaluation necessary to demonstrate and maintain the required capability and any significant impediments to accomplishing this goal.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: January 4, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–613 Filed 1–9–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

President's Commission Excellence in Special Education

AGENCY: President's Commission on Excellence in Special Education, Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice provides the location of the first meeting of the President's Commission on Excellence in Special Education (Commission). This is a subsequent notice about the Commission meeting first published on December 19, 2001, in the **Federal Register**, Vol. 66, No. 244 on page 65473. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act in order to notify the public of their opportunity to attend. Members of the general public may observe and listen to Commission proceedings via live feed television at the Hotel Washington. The Commission will not receive comments from the general public at this meeting, but any member of the public is permitted to file a written statement with the Commission. Subsequent Commission meetings and hearings will be posted on the Commission's Web site.

DATES AND TIMES: Tuesday, January 15, 2002, from 7:30 a.m.–5 p.m. Please note this is a revised time.

ADDRESSES: The Commission meeting will be held in Washington, DC, at the Hotel Washington located at 515 15th Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: C. Todd Jones, Executive Director, at 202–208–1312 (telephone) or Troy R. Justesen, Deputy Executive Director, at 202–219–0704 (telephone), (202) 208–1953 (fax), *troy.justesen@ed.gov* (E-mail) or via the Commission's Web site address at: *http://www.ed.gov/inits/commissionsboards/whspecialeducation/sitemap.html*

SUPPLEMENTARY INFORMATION: The Commission was established under Executive Order 13227 (October 2, 2001) to collect information and study issues Related to Federal, State, and local special education programs with the goal of recommending policies for improving the educational performance of students with disabilities. In furtherance of its duties, the Commission shall invite experts and members of the public to provide information and guidance. The Commission shall prepare and submit a report to the President outlining its findings and recommendations.

At the January meeting, the Commission will discuss current and future activities. Specifically, the Commission will focus on planning future Commission meetings and hearings to be held in locations across the nation.

Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative formats) should notify Troy R. Justesen, at (202) 219–0704, by no later than January 8, 2002. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site will be accessible to individuals with mobility impairments, including those who use wheelchairs.

Records of all Commission proceedings are available for public inspection at the President's Commission on Excellence in Special Education, 80 F Street, N.W., Suite 408; Washington, DC 20208 from 9 a.m. to 5 p.m. (EST).

Dated: January 4, 2002.

C. Todd Jones,

Executive Director & Delegated Functions of Assistant Secretary for Office for Civil Rights.

[FR Doc. 02–594 Filed 1–9–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–259–000]

ANR Pipeline Co.; Notice Shortening Comment Period

January 3, 2002.

On December 26, 2001, ANR Pipeline Company (ANR) filed an Offer of Settlement (Settlement) in the above-docketed proceeding. ANR's Settlement also included a request for a shortened comment period. The Settlement transmittal states that the request for a shortened comment period is supported by the only active participants to this proceeding.

Upon consideration, notice is hereby given that the time for filing initial comments on ANR's Settlement is hereby shortened to and including January 8, 2002. Reply comments shall be filed on or before January 15, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–572 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–10–000]

Enogex, Inc.; Notice of Petition for Rate Approval

January 4, 2002.

Take notice that on December 18, 2001, Enogex Inc. (Enogex) filed a petition for approval for a rate for interruptible Section 311 transportation service on expanded facilities, the Enogex System, the result of the merger of Enogex, Inc. and Transok, LLC, scheduled for January 1, 2002. The rate will become effective January 1, 2002. Enogex proposes a rate of $0.70 per MMBtu for interruptible service on the Enogex System, as well as a combined fuel tracker rate of 1.51% plus actual fuel for use of low pressure compression and dehydration facilities.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before the comment date. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: January 11, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–574 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–61–000, *et al.*]

Bayswater Peaking Facility, LLC, *et al.*; Electric Rate and Corporate Regulation Filings

January 4, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Bayswater Peaking Facility, LLC

[Docket No. EG02–61–000]

On December 28, 2001 Bayswater Peaking Facility, LLC (the Applicant), with its principal offices at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Federal Energy Regulatory Commission (Commission) an application for a determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The Applicant states that it is a Delaware corporation and is the owner and operator of a nominal 46 megawatt natural gas-fired simple cycle peak electric generating facility (''Facility'') to be located in Far Rockaway, Queens County, New York. The Facility will sell energy, capacity, and ancillary services into the wholesale generation market.

Comment Date: January 25, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. MAIN Wind I, LLC

[Docket No. EG02–62–000]

Take notice that on January 2, 2002, MAIN Wind I, LLC, 650 NE Holladay, Suite 700, Portland, Oregon 97232, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The applicant is a limited liability company organized under the laws of the State of Oregon and a wholly owned subsidiary of PacifiCorp Power Marketing, Inc., an Oregon corporation (PPM). PPM is a wholly owned subsidiary of PacifiCorp Holdings, Inc., a Delaware corporation with general offices in Portland, Oregon (PHI). PHI is a wholly owned subsidiary of NA General Partnership, a Nevada general partnership (NAGP). NAGP's two partners are Scottish Power NA 1 Limited and Scottish Power NA 2 Limited. Scottish Power NA 1 Limited and Scottish Power NA 2 Limited are private limited companies incorporated in Scotland and are wholly owned subsidiaries of ScottishPower plc, a public limited corporation organized under the laws of Scotland.

The applicant will be engaged directly and exclusively in the business of owning and/or operating one or more eligible facilities (the Facilities) and selling at wholesale at market-based rates electric energy from the Facilities. Once constructed, the Facilities will consist of an approximately 50 MW wind-powered electric generation facility located near Mendota, Illinois, and may also include an additional approximately 50 MW wind-powered generation facility located near Mendota, Illinois. Copies of the application have been served upon the Oregon Public Utility Commission and the Illinois Public Utility Commission, as ''affected state commissions'' under 18 CFR § 365.2(b)(3), and the Securities and Exchange Commission.

Comment Date: January 25, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. MAPP Wind I, LLC

[Docket No. EG02–63–000]

Take notice that on January 2, 2002, MAPP Wind I, LLC, 650 NE Holladay, Suite 700, Portland, Oregon 97232, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The applicant is a limited liability company organized under the laws of the State of Oregon and a wholly owned subsidiary of PacifiCorp Power Marketing, Inc., an Oregon corporation (PPM). PPM is a wholly owned subsidiary of PacifiCorp Holdings, Inc., a Delaware corporation with general offices in Portland, Oregon (PHI). PHI is a wholly owned subsidiary of NA General Partnership, a Nevada general partnership (NAGP). NAGP's two partners are Scottish Power NA 1 Limited and Scottish Power NA 2 Limited. Scottish Power NA 1 Limited and Scottish Power NA 2 Limited are private limited companies incorporated in Scotland and are wholly owned subsidiaries of ScottishPower plc, a public limited corporation organized under the laws of Scotland.

The applicant will be engaged directly and exclusively in the business of owning and/or operating one or more eligible facilities (Facilities) and selling

at wholesale at market-based rates electric energy from the Facilities. Once constructed, the Facilities will consist of an approximately 51 MW wind-powered electric generation facility located in southwestern Minnesota, and may also include an additional approximately 80 MW wind-powered generation facility located in southwestern Minnesota. Copies of the application have been served upon the Oregon Public Utility Commission and the Minnesota Public Utility Commission, as ''affected state commissions'' under 18 CFR § 365.2(b)(3), and the Securities and Exchange Commission.

Comment Date: January 25, 2002. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. West Georgia Generating Company, LLC

[Docket No. ER99–2186–001]

Take notice that on December 31, 2001, West Georgia Generating Company, LLC (West Georgia) tendered for filing with the Federal Energy Regulatory Commission (Commission) a change in upstream ownership of West Georgia that may be relevant to West Georgia's market-based rate authority. West Georgia submits that this change does not affect West Georgia's market-based authority.

Comment Date: January 22, 2002.

5. Geysers Power Company, LLC

[Docket No. ER02–236–001]

Take notice that on December 31, 2001, Geysers Power Company, LLC (Geysers Power), tendered for filing with the Federal Energy Regulatory Commission (Commission) substitute rate sheets which replace certain of the rate sheets submitted by Geysers Power in the above-referenced docket on October 31, 2001, conditionally accepted and suspended by the Commission on December 19, 2001. Geysers Power, LLC, 97 FERC 61,295 (2001). Geysers Power requests waiver for Commission regulations to permit it to establish an effective date of January 1, 2002, for these substitute rate sheets, subject to the terms of the December 19, 2001 Order.

Comment Date: January 22, 2002.

6. PacifiCorp

[Docket No. ER02–653–000]

Take notice that PacifiCorp on December 31, 2001, tendered for filing in accordance with 18 CFR 35 of the Commission's rules and regulations, Fourth Revised Volume No. 11 (Tariff) incorporating proposed changes to its Open Access Transmission Tariff due to retail direct access in the state of Oregon and generation interconnection requirements. Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

PacifiCorp has requested an effective date of March 1, 2002.

Comment Date: January 22, 2002.

7. PacifiCorp

[Docket No. ER02–654–000]

Take notice that PacifiCorp on December 31, 2001, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Network Integration Transmission Service Agreement with Basin Electric Power Cooperative (Basin) under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: January 22, 2002.

8. New England Power Pool

[Docket No. ER02–655–000]

Take notice that on December 31, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include J. Aron & Company (J. Aron), the Connecticut Office of Consumer Counsel (CT OCC), and Entergy Nuclear Vermont Yankee, LLC (ENVY). The Participants Committee requests effective dates of January 1, 2002, February 1, 2002, and March 1, 2002 for commencement of participation in NEPOOL by J. Aron, CT OCC, and ENVY, respectively.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: January 22, 2002.

9. New England Power Pool

[Docket No. ER02–656–000]

Take notice that on December 31, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted a filing requesting the approval of proposed changes to NEPOOL Market Rules & Procedures 5, 9, Appendix 11-D and 20, to modify NEPOOL's Load Response Program. The proposed modifications were developed to increase participation in the Program.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment Date: January 22, 2002.

10. PJM Interconnection, L.L.C.

[Docket No. ER02–657–000]

Take notice that on December 31, 2001, PJM Interconnection, L.L.C. (PJM), submitted for filing revisions to the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area (RAA). PJM states that the proposed changes will expand membership in the RAA's Reliability Committee to include more market participants, as desired by the Commission. Copies of this filing were served upon all PJM members and the state electric utility regulatory commissions in PJM.

PJM proposes January 1, 2002 as the effective date for these changes and, to that end, requests waiver of the Commission's 60-day notice requirement.

Comment Date: January 22, 2002.

11. PJM Interconnection, L.L.C.

[Docket No. ER02–658–000]

Take notice that on December 31, 2001, PJM Interconnection, L.L.C. (PJM), submitted for filing with the Federal Energy Regulatory Commission (Commission) revisions to the PJM West Reliability Assurance Agreement Among Load Serving Entities in the PJM West Region (West RAA). PJM states that the proposed revisions will better coordinate the capacity procedures and markets under the West RAA with those in effect for PJM's existing control area under the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area and also place a ceiling on the exposure of load-serving entities to capacity deficiency charges under the West RAA. PJM states that these changes also expand membership in the West RAA's Reliability Committee to include more market participants, as desired by the Commission.

PJM states that it has designated January 1, 2002 as the effective date for these changes, to be consistent with the effective date previously requested for the West RAA and other PJM West documents in Docket No. RT01–98–000. PJM requests, however, that the Commission, through suspension or otherwise, assign to the West RAA amendments in this docket the same effective date as is established for the West RAA in Docket No. RT01–98–000 and, to the extent necessary, grant waiver of the Commission's 60-day notice requirement.

Copies of this filing were served upon all PJM members, the state electric utility regulatory commissions in PJM,

and all parties listed on the official service list in Docket No. RT01–98–000.

Comment Date: January 22, 2002.

12. Xcel Energy Services Inc.

[Docket No. ER02–659–000]

Take notice that on December 31, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service Company (Southwestern), submitted for filing a Transaction Agreement between Southwestern and El Paso Electric Company. XES requests that this agreement become effective on January 1, 2002.

Comment Date: January 22, 2002.

13. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–660–000]

Take notice that on December 31, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) submitted for filing amended and executed long-term firm point-to-point transmission service agreement with IDACORP Energy L.P. (IDACORP). A copy of this filing was served on IDACORP.

Deseret requests an effective date of January 1, 2002.

Comment Date: January 22, 2002.

14. Connexus Energy

[Docket No. ER02–661–000]

Take notice that on December 31, 2001, Connexus Energy submitted for filing with the Federal Energy Regulatory Commission (Commission) revised sheets to Connexus Energy's Electric Rate Schedule FERC No. 1. Connexus Energy states that the revised sheets effect minor rate changes under Connexus Energy's contract with Elk River Municipal Utilities. Connexus Energy requests waiver of the Commission's notice requirement to allow a January 1, 2002 effective date.

Comment Date: January 22, 2002.

15. Boston Edison Company

[Docket No. ER02–662–000]

Take notice that on December 31, 2001, Boston Edison Company (Boston Edison) tendered for filing an unexecuted interconnection Agreement between Boston Edison and IDC Bellingham, LLC (IDC Bellingham). Boston Edison requests an effective date of March 1, 2002.

Boston Edison states that it has served a copy of the filing on IDC Bellingham and the Massachusetts Department of Telecommunications and Energy.

Comment Date: January 22, 2002.

16. Public Service Company of New Hampshire

[Docket No. ER02–663–000]

Take notice that on December 31, 2001, Public Service Company of New Hampshire (PSNH) submitted for filing with the Federal Energy Regulatory Commission (Commission) an informational statement concerning PSNH's fuel and purchased power adjustment clause charges and credits for the periods of July 1, 2000 to March 31, 2001.

This informational statement is submitted pursuant to a settlement agreement approved by the Commission in Publ. Serv. Co of New Hampshire, 57 FERC ¶ 61,068 (1991), and a settlement stipulation approved by the Commission by Letter Order in Docket Nos. ER91–143–000, ER91–235–000 and EL91–15–000, dated July 22, 1992.

Copies of this filing were served upon the Town of Ashland Electric Company and the New Hampton Village Precinct.

Comment Date: January 22, 2002.

17. American Transmission Company LLC

[Docket No. ER02–664–000]

Take notice that on December 31, 2001, American Transmission Company LLC (ATCLLC) tendered for filing Firm and Non-Firm Point-to-Point Service Agreements for Maclaren Energy Inc.

ATCLLC requests an effective date of January 1, 2002.

Comment Date: January 22, 2002.

18. Puget Sound Energy, Inc.

[Docket No. ER02–665–000]

Take notice that on December 31, 2001, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Short-Term Firm Point-To-Point Transmission Service with the United States of America Department of Energy acting by and through the Bonneville Power Administration (Bonneville), as Transmission Customer. A copy of the filing was served upon Bonneville.

Comment Date: January 22, 2002.

19. Cinergy Services, Inc.

[Docket No. ER02–666–000]

Take notice that on December 31, 2001, Cinergy Services, Inc., (Provider), tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed renewal of Cinergy Rate Schedule No. 292, by and between Provider and NewEnergy, Inc. (Customer). The successive annual term is in accordance with Cinergy Rate Schedule No. 292, which has been previously accepted by the Commission under FERC Docket No. ER01–882.

Provider and Customer are requesting an effective date of January 1, 2002.

Comment Date: January 22, 2002.

20. Cinergy Services, Inc.

[Docket No. ER02–667–000]

Take notice that on December 31, 2001, Cinergy Services, Inc., (Provider), tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed renewal of Cinergy Rate Schedule No. 288, by and between Provider and FirstEnergy Services Corp. (Customer). The successive annual term is in accordance with Cinergy Rate Schedule No. 288, which has been previously accepted by the Commission under FERC Docket No. ER01–881.

Provider and Customer are requesting an effective date of January 1, 2002.

Comment Date: January 22, 2002.

21. Cinergy Services, Inc.

[Docket No. ER02–668–000]

Take notice that on December 31, 2001, Cinergy Services, Inc. (Provider) tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed renewal of Cinergy Rate Schedule No. 286, by and between Provider and Strategic Energy, LLC (Customer). The successive annual term is in accordance with Cinergy Rate Schedule No. 286, which has been previously accepted by the Commission under FERC Docket No. ER01–880.

Provider and Customer are requesting an effective date of January 1, 2002.

Comment Date: January 22, 2002.

22. Bayswater Peaking Facility, LLC

[Docket No. ER02–669–000]

Take notice that on December 28, 2001, Bayswater Peaking Facility, LLC (Bayswater) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for authorization to sell wholesale power at market-based rates, and certain ancillary services at market-based rates into the New York market. Bayswater also requested that the Commission accept for filing a long-term Power Purchase Agreement for the sale of the power from Bayswater to the Long Island Power Authority as a stand-alone rate schedule under its proposed market rate tariff. Bayswater has requested that this Market Rate Tariff become effective upon commencement of service.

Copies of this filing have been served on the New York State Public Service Commission and the Long Island Power Authority.

Comment Date: January 22, 2002.

23. Delmarva Power & Light Company

[Docket No. ER02–670–000]

Take notice that on December 31, 2001, Delmarva Power & Light Company (Delmarva), tendered for filing revised rate schedule sheets between Delmarva and each of the Delaware Cities of Milford, Newark, and New Castle and the Delaware Towns of Middletown, Clayton, and Smryna (collectively, the Municipalities). Delmarva also tendered for filing a revised rate schedule between Delmarva and the Delaware Municipal Electric Corporation (DEMEC). Delmarva requests that the Commission waive its notice of filing requirements to allow all of the revised rate schedule sheets to become effective as of January 1, 2002.

Copies of the filing were served upon the Delmarva's jurisdictional customers and the Delaware Public Service Commission.

Comment Date: January 22, 2002.

24. ConAgra Trade Group, Inc.

[Docket No. ER02–672–000]

Take notice that on December 28, 2001, ConAgra Energy Services, Inc. changed its name to ConAgra Trade Group, Inc. All contractual agreements with ConAgra Energy Services, Inc. remain unaffected and will be performed by ConAgra Trade Group, Inc.

Comment Date: January 22, 2002.

25. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–673–000]

Take notice that on December 31, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed proposed amendments to its Open Access Transmission Tariff (OATT) and Agreement of Transmission Facilities Owners to Organize the Midwest ISO (Midwest ISO Agreement) in compliance with the Commission's Order in Docket No. ER98–1438–000, et al., Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,033 (2001), which required the Midwest ISO to place and provide all load under the Midwest ISO OATT.

The Midwest ISO requests that its amendments become effective on the later of February 1, 2002 or the date the Midwest ISO begins providing service under its OATT.

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: January 22, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

C. B. Spencer,

Acting Secretary.

[FR Doc. 02–620 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3668–003, et al.]

Commonwealth Edison Company, et al.; Electric Rate and Corporate Regulation Filings

January 3, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Commonwealth Edison Company

[Docket No. ER00–3668–003]

Take notice that on December 10, 2001, Commonwealth Edison Company (ComEd), in compliance with the Commission's November 9, 2001 ''Order Conditionally Accepting Compliance Filing,'' 97 FERC ¶ 61,171 (2001), submitted for filing with the Federal Energy Regulatory Commission (Commission) in the above-referenced proceeding a revised compliance filing. As required by the Commission, ComEd deleted modifications of the unexecuted Interconnection Agreement related to the additions to Section 7.1 and the modification to Appendix C of the Interconnection Agreement. Copies of this filing were served on University Park, on the Illinois Commerce Commission and on the parties designated on the official service list compiled by the Secretary.

Comment Date: January 14, 2002.

2. Duke Energy Corporation

[Docket No. ER01–1616–006]

Take notice that on December 28, 2001, Duke Energy Corporation filed a refund report in the above-captioned proceeding.

Comment Date: January 18, 2002.

3. PJM Interconnection, L.L.C.

[Docket No. ER02–563–000]

Take notice that on December 28, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing a notice of withdrawal of its proposed amendments to section 8.6 of the Appendix to Attachment K of PJM's Open Access Transmission Tariff and to Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. filed in this docket. PJM proposed the amendments to conform the provisions of PJM's interregional congestion pilot program between PJM and the New York Independent System Operator, Inc. (NYISO) to the provisions filed by NYISO in Docket No. ER02–194–000. PJM seeks to withdraw the proposed conforming amendments because the Federal Energy Regulatory Commission rejected the corresponding NYISO provisions.

Copies of this filing have been served on all PJM Members, the NYISO, the state electric utility regulatory commissions in the PJM and NYISO control areas, and the parties on the official service lists in Docket Numbers ER01–2528, ER02–194–000, and ER02–563–000.

Comment Date: January 18, 2002.

4. Exelon Generation Company, LLC

[Docket No. ER02–615–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and American Electric Power Services Corporation as agent for the AEP Companies under Exelon Generation's wholesale power sales, tariff, FERC Electric Tariff Original Volume No. 2

Comment Date: January 17, 2002.

5. San Diego Gas & Electric Company

[Docket No. ER02–635–000]

Take notice that on December 28, 2001, San Diego Gas & Electric (SDG&E) tendered for filing a change in rates for the Transmission Revenue Balancing Account Adjustment and the Transmission Access Charge Balancing Account Adjustment set forth in its Transmission Owner Tariff (TO Tariff). The effect of this rate change is to increase rates for jurisdictional transmission service utilizing that portion of the California Independent System Operator-Controlled Grid owned by SDG&E. SDG&E requests that this rate change be made effective January 1, 2002.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator and other interested parties.

Comment Date: January 18, 2002.

6. Southern California Edison Company

[Docket No. ER02–636–000]

Take notice that on December 28, 2001, Southern California Edison Company (SCE) tendered for filing a revision to its Transmission Owner Tariff, FERC Electric Tariff, Substitute First Revised Original Volume No. 6, to reflect the annual update of the Transmission Revenue Balancing Account Adjustment and the Transmission Access Charge Balancing Account Adjustment to become effective January 1, 2002.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator, and all interested parties.

Comment Date: January 18, 2002.

7. Pacific Gas and Electric Company

[Docket No. ER02–637–000]

Take notice that on December 28, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing changes in rates for the Transmission Revenue Balancing Account Adjustment (TRBAA) rate set forth in its Transmission Owner Tariff (TO Tariff), the Reliability Services (RS) rates set forth in both its TO Tariff and its Reliability Services Tariff (RS Tariff) (certain customers' RS rates are in the TO Tariff while other customers' RS rates are in the separate RS Tariff) and the Transmission Access Charge Balancing Account Adjustment (TACBAA) also set forth in its TO Tariff. With the exception of the TACBAA rate, these changes in rates are proposed to become effective January 1, 2002.

Copies of this filing have been served upon the California Independent System Operator (ISO), Scheduling Coordinators registered with the ISO, Southern California Edison Company, San Diego Gas &Electric Company, the California Public Utilities Commission and other parties to the official service lists in recent TO Tariff rate cases, FERC Docket Nos. ER00–2360–000 and ER01–66–000.

Comment Date: January 18, 2002.

8. New York Independent System Operator, Inc.

[Docket No. ER02–638–000]

Take notice that on December 28, 2001, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff and Open Access Transmission Tariff in order to implement a new program that will allow market participants to ''pre-schedule'' external transactions and wheels-through. The NYISO has requested an effective date of February 28, 2002.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned docket.

Comment Date: January 18, 2002.

9. New York Independent System Operator, Inc.

[Docket No. ER02–639–000]

Take notice that on December 28, 2001, the New York Independent System Operator, Inc. (NYISO) filed a revision to Schedule 1, Section 3A of its Open Access Transmission Tariff (OATT), to specifically enumerate ''Regulatory fees'' as a recoverable NYISO cost. The NYISO has requested a waiver of notice requirements and has proposed an effective date of January 1, 2002 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's OATT and Services Tariff.

Comment Date: January 18, 2002.

10. Western Resources, Inc.

[Docket No. ER02–640–000]

Take notice that on December 28, 2001, Western Resources, Inc. (WR) tendered for filing a Service Agreement between WR and Mississippi Delta Energy Agency (MDEA). WR states that the purpose of this agreement is to permit MDEA to take service under WR's Market Based Power Sales Tariff on file with the Commission. This agreement is proposed to be effective November 28, 2001.

Copies of the filing were served upon MDEA and the Kansas Corporation Commission.

Comment Date: January 18, 2002.

11. Ameren Services Company

[Docket No. ER02–641–000]

Take notice that on December 28, 2001, Ameren Services Company (ASC) tendered for filing a Service Agreement for Long Term Firm Point-to-Point Transmission Services between ASC and Ameren Energy, Inc. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Ameren Energy, Inc. pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: January 18, 2002.

12. Exelon Generation Company, LLC

[Docket No. ER02–642–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a notice of cancellation of its service agreement for the purchase and sale of power and energy with Sempra Energy Trading Corp. f/k/a AIG Trading Corporation. Copies of the filing have been served on the parties to the affected service agreements.

Exelon Generation proposes that the cancellations be made effective on December 26, 2001, and therefore requests waiver of the Commission's notice requirement.

Comment Date: January 18, 2002.

13. Southern California Edison Company

[Docket No. ER02–643–000]

Take notice, that on December 28, 2001, Southern California Edison Company (SCE) tendered for filing the Amended and Restated District-Edison 1987 Service and Interchange Agreement (Agreement) between SCE and The Metropolitan Water District of Southern California (District), which provides the terms to redefine the methodology for valuing the return of exchange energy delivered by District to SCE after January 17, 2001, for the contract year beginning October 1, 2000.

Copies of this filing were served upon the Public Utilities Commission of the State of California and District.

SCE requests the Commission to assign an effective date January 17, 2001 to the Agreement.

Comment Date: January 18, 2002.

14. Northeast Utilities Service Company, Holyoke Water Power Company, Holyoke Power and Electric Company

[Docket No. ER02–644–000]

Take notice that on December 28, 2001, Northeast Utilities Service Company (NUSCO), on behalf of Holyoke Water Power Company (HWP) and Holyoke Power and Electric Company (HP&E), tendered for filing (1) an amendment extending through December 31, 2002 the term of an agreement for the sale of 100 percent of the net output of the Mt. Tom Power Plant (Mt. Tom) from HWP to HP&E and (2) an amendment extending through December 31, 2002 the term of an agreement for the sale of 100 percent of HP&E's entitlement to Mt. Tom's net output from HP&E to Select Energy, Inc. NUSCO, HWP, and HP&E seek an effective date for the amendments of January 1, 2002.

Comment Date: January 18, 2002.

15. American Transmission Company LLC

[Docket No. ER02–645–000]

Take notice that on December 28, 2001, American Transmission Company LLC (ATCLLC) tendered for filing OATT revisions to accommodate retail access in Michigan. ATCLLC requests an effective date of January 1, 2002.

Comment Date: January 18, 2002.

16. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–646–000]

Take notice that on December 28, 2001, Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) executed Service Agreements with Dairyland Power Cooperative establishing Dairyland Power Cooperative as a Long-term Firm Point-to-Point Transmission Customer under the terms of the Alliant energy corporate Services, Inc. Open Access Transmission Tariff.

Alliant Energy Corporate Services, Inc. requests effective dates of May 1, 2001 for service agreement with OASIS request numbers 834751 and 834744; May 1, 2000 for service agreement with OASIS request numbers 584184 and 584180; May 1, 1999 for service agreement with OASIS request 407826 and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment Date: January 18, 2002.

17. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–647–000]

Take notice that on December 28, 2001, Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) executed Service Agreements with NRG Power Marketing Inc. establishing EnXco, Inc. as a Short-Term Firm and Non-Firm Point-to-Point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc. Open Access Transmission Tariff.

Alliant Energy corporate Services, Inc. requests an effective date of November 27, 2001, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment Date: January 18, 2002.

18. Sithe New Boston, LLC

[Docket No. ER02–648–000]

Take notice that on December 28, 2001 Sithe New Boston, LLC (Sithe New Boston) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Reliability Must Run Agreement with ISO New England Inc. Sithe New Boston requests an effective date of January 1, 2002. Sithe New Boston requests a waiver of all applicable Commission regulations to permit such effective date.

Sithe New Boston provided a copy of this filing to ISO–NE on the date of filing. Sithe New Boston also as a courtesy has mailed a copy of this filing to each affected state regulatory authority.

Comment Date: January 18, 2002.

19. New England Power Company

[Docket No. ER02–649–000]

Take notice that on December 28, 2001, New England Power Company (NEP) tendered for filing Original Service Agreement No. 17 for service under NEP's Wholesale Market Sales Tariff, FERC Electric Tariff, Original Volume No. 10 between NEP and Morgan Stanley Capital Group Inc.

Comment Date: January 18, 2002.

20. FirstEnergy Solutions Corp.

[Docket No. ER02–650–000]

Take notice that on December 28, 2001, FirstEnergy Solutions Corp. (FE Solutions) submitted for filing service agreements between FE Solutions and its affiliates, Metropolitan Edison Company and Pennsylvania Electric Company, under FE Solutions' market-based rate power sales tariff, FirstEnergy Solutions Corp., FERC Electric Tariff, Original Volume No.1.

Comment Date: January 18, 2002.

21. California Independent System Operator Corporation

[Docket No. ER02–651–000]

Take notice that on December 28, 2001, the California Independent System Operator Corporation (ISO) submitted for filing Amendment No. 41 to the ISO Tariff. Amendment No. 41 would modify the ISO Tariff and Protocols in four respects. First, the ISO proposes changes in the use of interest received by the ISO on payments in default to permit the use of such interest to pay unpaid creditors first and secondly to offset the Grid Management Charge. Second, the ISO proposes new provisions to create a ''safe harbor'' mechanism to permit the ISO to provide confidential information to governmental agencies that have established their own confidentiality provisions and procedures. Third, the ISO proposes changes to the definition of the Non-Emergency Clearing Price Limit to provide for a negative maximum. Fourth, the ISO proposes the correction of a typographical error in ISO Tariff Section 9.2.6. The ISO requests that the first proposal described above be made effective November 1, 2001, and that the other three proposals described above be made effective February 26, 2002.

The ISO has served copies of this filing upon the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and upon all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

Comment Date: January 18, 2002.

22. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–652–000]

Take notice that on December 28, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing revisions to its Open Access Transmission Tariff (OATT), FERC

Electric Tariff, Original Volume No. 1, which propose to provide the means for the Midwest ISO to bill Midwest ISO's Transmission Owners and International Transmission Company for Midwest ISO's monthly capital costs and the portion of its operating costs consistent with the services the Midwest ISO will be providing prior to the provision of Transmission Service under the Midwest ISO OATT.

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: January 18, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–569 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–27–000]

Florida Gas Transmission Co.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Phase VI Expansion and Request for Comments on Environmental Issues

January 4, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Phase VI Expansion involving construction and operation of facilities by Florida Gas Transmission Company (FGT) in the States of Alabama, Florida, Louisiana, and Mississippi.[1] These facilities would consist of about 33.3 miles of various diameter pipeline and 18,600 horsepower (hp) of compression. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice FGT provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

FGT proposes to construct approximately 33.3 miles of pipeline, consisting of approximately 25.4 miles of additional mainline and 7.9 miles of various diameter (6-inch to 36-inch-diameter) new lateral and lateral loops, as well as 18,600 horsepower of additional compression at 10 compressor stations. FGT proposes to expand the capacity of its facilities in Alabama, Florida, Louisiana, and Mississippi to transport an additional 121,100 million British thermal units per day of natural gas to four separate parties, Orlando Utilities Commission, Reliant Energy Services, Inc., South Florida Natural Gas, and the City of Leesburg, Florida. FGT's proposed facilities are summarized below.

Looping of Existing Mainline

1. Loop A—approximately 2.3 miles of 36-inch-diameter pipeline in Mobile County, Alabama;

2. Loop B—approximately 3.0 miles of 36-inch-diameter pipeline in Baldwin County, Alabama;

3. Loop C—approximately 3.1 miles of 30-inch-diameter pipeline in Washington County, Florida. Construction of Loop C for the entire 3.1 miles would coincide with the removal of 3.1 miles of FGT's 24-inch-diameter pipe previously abandoned in place;

4. Loop D—approximately 3.0 miles of 30-inch-diameter pipeline in Suwannee County, Florida, and

5. Loop E—approximately 14.0 miles of 30-inch-diameter pipeline in Washington County, Florida.

New Laterals and Lateral Loops

6. Leesburg Lateral Loop—approximately 1.3 miles of 6-inch-diameter pipeline in Lake County, Florida;

7. Cape Kennedy Lateral Loop Extension—approximately 1.4 miles of 16-inch-diameter pipeline in Brevard County, Florida, and

8. Stanton Lateral—approximately 5.2 miles of 16-inch-diameter pipeline in Orange County, Florida.

Compressor Station Additions

9. Station No. 9—Up-rate Unit #905 by 400 hp to 2,800 hp in Washington Parish, Louisiana;

10. Station No. 10—Up-rate Unit #1005 by 200 hp to 2,600 hp in Perry County, Mississippi;

11. Station No. 11—Up-rate Unit #1106 by 300 hp to 2,700 hp in Mobile County, Alabama;

[1] FGT's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

12. Station No. 12A—Add new 2,000 hp unit for a total of 15,000 hp in Santa Rosa County, Florida;

13. Station No. 13—Up-rate Unit #1306 by 300 hp to 2,700 hp in Washington County, Florida;

14. Station No. 14—Up-rate Unit #1406 by 300 hp to 2,700 hp in Gadsden County, Florida;

15. Station No. 15A—Add 2,000 hp by exchanging the 15,000 hp Unit #2401 at Station No. 24 with the 13,000 Hp Unit #1507 at Station No. 15A in Taylor County, Florida;

16. Station No. 18—Add a new reciprocating Unit #1806 of 7,200 hp and up-rate an Unit #1805 by 300 hp to 2,700 hp on the existing 24 and 30-inch-diameter mainlines in Orange County, Florida for a total increase of 7,500 hp;

17. Station No. 24—Add a single 7,200 hp Unit #2402 gas-driven centrifugal unit and exchange the 15,000 hp Unit #2401 at Station #24 for the 13,000 hp Unit #1507 at Station No.15A, resulting in an overall increase of 5,200 hp at Station No. 24 in Gilchrist County, Florida, and

18. Station No. 26—Up-rate Unit #2601 by 400 hp to 7,700 hp on the existing 30-inch West Leg in Citrus County, Florida.

The general location of the project facilities is shown in appendix 1.[2] *If you are interested in obtaining detailed maps of a specific portion of the project, send in your request using the form in appendix 3.*

Land Requirements for Construction

Construction of the proposed facilities would require about 399.3 acres of land. Following construction, about 190.9 acres would be maintained as new aboveground facility sites. The remaining 208.4 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

19. Geology and soils.

20. Land use

21. Water resources, fisheries, and wetlands.

22. Cultural resources.

23. Vegetation and wildlife.

24. Air quality and noise.

25. Endangered and threatened species.

26. Hazardous waste.

27. Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by FGT. This preliminary list of issues may be changed based on your comments and our analysis.

28. Eight residences are within 50 feet of the construction right-of-way.

29. 31 federally listed endangered or threatened species may occur in the proposed project area.

Also, we have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

30. Send an original and two copies of your letter to: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

31. Label one copy of the comments for the attention of Gas Branch 2.

32. Reference Docket No. CP02–27–000.

33. Mail your comments so that they will be received in Washington, DC on or before February 8, 2002.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–570 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RT02–2–000, RT01–2–000, RT01–98–000, RT01–95–000, and RT01–86–000]

Notice of State-Federal Northeast Regional Panel Discussion

January 3, 2002.

In the matter of: State-Federal Regional RTO Panels; PJM Interconnection, L.L.C., Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, UGI Utilities Inc.; PJM Interconnection, L.L.C. and Allegheny Power; New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas & Electric Corporation; Bangor Hydro-Electric Company, Central Maine Power Company, National Grid USA, Northeast Utilities Service Company, The United Illuminating Company, Vermont Electric Power Company, ISO New England Inc.; Notice of State-Federal Northeast Regional Panel Discussion

Take notice that on January 9, 2002, a State-Federal Northeast Regional Panel discussion will be held, pursuant to the Commission's order issued November 9, 2001, in Docket No. RT02–2–000, *et al.*[1] A transcript of the panel discussion will be placed in the above listed dockets.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–571 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

January 4, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Exempt

1. CP01–438–000, 12–28–01, David Swearington
2. Project No. 1927–028, 12–28–01, Ellen D. Smith
3. Project No. 1927–028, 12–28–01, Ellen D. Smith.
4. Project No. 2342–000, 12–28–01, Loree Randall

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–573 Filed 1–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2004 Resource Pool-Loveland Area Projects

AGENCY: Western Area Power Administration, DOE.

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

[1] Order Announcing the Establishment of State-Federal Regional Panels to Address RTO Issues, Modifying the Application of Rule 2201 in the Captioned Dockets, and Clarifying Order No. 607, 97 FERC ¶ 61,182 (2001).

ACTION: Notice of final power allocations.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), announces its Post-2004 Resource Pool Final Allocation of Power developed under the requirements of Subpart C—Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule. This notice also includes Western's responses to public comments on proposed allocations published May 11, 2001.

Final allocations are published to show Western's decisions prior to beginning the contractual phase of the process. Firm electric service contracts, negotiated between Western and allottees in this notice, will permit delivery of the allotted power from the October 2004 billing period, through the September 2024 billing period.

DATES: The Post-2004 Resource Pool Final Allocation of Power will become effective February 11, 2002 and will remain in effect until September 30, 2024.

ADDRESSES: All documents developed or retained by Western in developing the final allocations are available for inspection and copying at the Rocky Mountain Customer Service Region Office, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986.

SUPPLEMENTARY INFORMATION: Western published Final Post-2004 Resource Pool Allocation Procedures (Procedures) in the **Federal Register** (65 FR 52419, August 29, 2000) to implement Subpart C—Power Marketing Initiative of the Program's Final Rule (10 CFR part 905), published in the **Federal Register** (60 FR 54151, October 20, 1995). The Program, developed in part to implement section 114 of the Energy Policy Act of 1992, became effective November 20, 1995. The goal of the Program is to require planning and efficient electric energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments. One aspect of the Program is to establish project-specific power resource pools and allocate power from these pools to new preference customers.

Western published its proposed allocations and initiated a public comment period in the **Federal Register** (66 FR 24133, May 11, 2001). Public information forums on the proposed allocations were held August 2, 7, and 9, 2001. The public comment period was extended from September 10, 2001, to October 12, 2001, in the **Federal Register** (66 FR 47652, September 13, 2001).

The Procedures, in conjunction with the Post-1989 Marketing Plan (51 FR 4012, January 31, 1986), establish the framework for allocating power from the Loveland Area Projects (LAP) resource pool.

I. Comments and Responses

Comment: Mni Sose asks that Western re-examine its understanding of government-to-government communications.

Response: Western supports DOE's American Indian policy that stresses the need for a government-to-government, trust-based relationship. Western intends to continue its practice of consultation with tribal governments so that tribal rights and concerns are considered prior to any actions being taken that affect the tribes.

The Post-1989 Marketing Plan, Program, and Procedures form the framework for allocating LAP power. The allocation process was conducted in a consistent manner with all LAP applicants. Prior to publishing proposed allocations, Western, recognizing the unique status of Native American tribes, consulted with tribes before their Applicant Profile Data (APD) submittal and during Western's review of data submitted on their APDs.

Once proposed allocations were published, Western sought to follow the public process and only allow formal comments, written and oral, to be submitted as input to the final allocation decision. Western provided written responses to questions that were not answered in the public forums and extended the comment period in conjunction with those answers to provide additional time for tribes to submit written comments on the proposed allocations. Western will not engage in discussions about the allocations with any parties outside of the formal process until final allocations are published. This procedural rule is applied consistently to tribes as well as non-tribal entities. Western does not believe that this procedural rule affects tribal self-governance rights nor creates an impact upon trust resources.

Western believes that the tribes were consulted about the process and Western considered the information gained from those consultations along with oral and written comments received during the public comment period to make the final allocations.

Comment: Western should not consider the benefits to tribes of Federal power from current service providers when making allocations to the tribes. In the event of the formation of a tribal utility, that power would be inaccessible to the tribes.

Response: The intent of the Program is to provide the benefits of Federal hydropower directly to individual tribes. Allocations listed in this notice will be made directly to the tribes. Any indirect Western hydroelectric benefits recognized in the calculation method were used by Western to determine a fair share for tribes at the time of allocation with no intent to create any commitment to transfer those benefits to the tribes. Any indirect Western hydroelectric benefits received by the tribes are contractual commitments between Western and the existing customers.

Comment: Western should consider the Wind River Reservation's Marathon and CamWest loads for allocation purposes.

Response: Western agrees that oil and gas resources on the reservation are tribally owned. However, as stated in Western's response to comments in the publication of the Procedures, ''When submitting Native American load data as a non-utility, only load of tribal entities and their members will be considered for an allocation.'' Marathon and CamWest are neither tribal entities nor tribal members. Therefore, the loads submitted in the reservation's APD for these operations were not considered in determining allocations.

Comment: Total allocations to the Wind River Reservation from Salt Lake City Area Integrated Projects (SLCA/IP) and LAP fall short of the 65 percent allocation. LAP should make up any shortfall that occurs between the two projects. The reservation should receive no less of an allocation than if they were located solely within LAP.

Response: LAP took into consideration the amount of the proposed SLCA/IP allocation in determining the final LAP allocation. Western believes that the allocation ultimately provided to the reservation should be congruent with the allocations made to other tribes. Taking into account current serving utility benefit, proposed SLCA/IP allocation, and LAP allocation, Western made every effort possible to provide approximately 65 percent total benefit to the reservation.

Comment: The Kickapoo Tribe in Kansas is concerned about not having the future demand submitted in its APD considered in the allocation process. The tribe understood that proposed growth in the next 2 to 5 years would be considered in the process. The tribe would like Western to consider future growth in the allocation process.

Response: Western stated during the publication of the Procedures that limited projected load estimates would be considered. As Western moved through the process and received data, a determination of definable limitations had to be developed that would ensure fairness in the allocation process and make sure that the pool was used to promote widespread use of the resource among new preference entities. The results of the data evaluation led Western to decide that eligible future load submitted in the APD would be considered in the allocation process only if the load was for facilities that were completed, or substantially near completion, at the time of the APD due date.

Comment: Certain changes should be made to the General Power Contract Provisions that consider tribal sovereignty. Underlying reserve contracts should be offered to tribes to reserve the power allocation for each tribe and allow for changes to the method of implementation. Western's Integrated Resource Planning requirements should be useful but not burdensome to the tribes.

Response: Entering into contractual arrangements with the tribes is the next step in the resource pool allocation process. However, contractual arrangements will not begin until final allocations are completed. Contractual provisions will be consistent with Section IV of the Procedures.

Comment: Several comments were submitted concerning the source of LAP power for deliveries to allottees in Kansas. Additional comments expressed concern about delivery points, transmission access, transmission arrangements, and cost of delivery arrangements for the allottees in Kansas.

Response: Transmission issues will be appropriately addressed during the contractual phase of the LAP post-2004 resource pool process. Allottees are ultimately responsible for transmission and delivery arrangements, but Western will assist allottees to secure arrangements required to provide the benefits of LAP power to the allottees.

Comment: Kansas Electric Power Cooperative, Inc. (KEPCo) expressed concern about the financial impacts to KEPCo and its member cooperatives. Tribal allocations will reduce sales to KEPCo members. Additional concern was expressed that the lost sales to member cooperatives would make it more difficult to meet Rural Utilities Service commitments for loan repayment.

Response: Western will work with KEPCo, its member cooperatives, and tribes to minimize negative financial impacts of LAP allocations. Western will assist tribes to find the best method of receiving LAP allocations that will ensure equitable treatment for all affected parties. Western understands that the cooperation of KEPCo and its member cooperatives is essential to making allocations to tribes in northeastern Kansas a success. Western will work to satisfy the needs of the parties involved.

II. Amount of Pool Resources

Western will allocate up to 4 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2004, as firm power. Current hydrologic studies indicate that about 28 megawatts (MW) of capacity and 44 Gigawatthours (GWh) of energy will be available for the summer season. Approximately 24 MW of capacity and 35 GWh of energy will be available for the winter season. Firm power means firm capacity and associated energy allocated by Western and subject to the terms and conditions specified in Western's long-term firm power electric service contracts.

III. Final Power Allocation

The following final power allocations are made in accordance with the Procedures. All of the allocations are subject to the execution of a contract in accordance with the Procedures.

Final allocations for Native American allottees are shown in this table.

Native American allottees	Final post-2004 power allocation			
	Summer kilowatthours	Winter kilowatthours	Summer kilowatts	Winter kilowatts
Iowa Tribe of Kansas and Nebraska	1,986,640	1,722,043	1,232	1,180
Kickapoo Tribe in Kansas	2,760,701	2,323,337	1,713	1,592
Prairie Band Potawatomi Nation	5,536,170	4,458,846	3,435	3,056
Sac and Fox Nation of Missouri	2,690,754	2,289,904	1,669	1,570
Wind River Reservation (Eastern Shoshone and Northern Arapaho Tribes)	2,242,166	1,968,930	1,391	1,350

Native American allottees received LAP allocations, that when combined with existing and future Western hydropower benefits, total approximately 65 percent of their eligible load in both the summer and winter season based on the adjusted seasonal energy data submitted by each tribe. The allocation process considered the current Western hydroelectric benefits received through serving utilities and future Western hydroelectric benefits that will be received by serving utilities as a result of this allocation process.

Based on the applications submitted by the Northern Arapaho and the Eastern Shoshone tribes, Western could not differentiate between each tribe's load. The data from each tribe was used to arrive at a final allocation for the Wind River Reservation instead of each tribe. The final LAP allocation for the reservation considers, in addition to the hydroelectric benefit from Western through the reservation's serving utility, the proposed allocation from Western's SLCA/IP resource pool. The combination of all three factors, LAP, SLCA/IP proposed allocation, and current serving utility benefit, provides approximately a 65 percent benefit of Western hydroelectric power to the reservation. The reservation's LAP allocation was changed after considering the proposed SLCA/IP allocation published in the **Federal Register** (66 FR 31910, June 13, 2001). Because system plant factors are different for LAP and SLCA/IP, only SLCA/IP's proposed kilowatthours were used to determine the LAP allocation. The allocation change to the reservation had no effect on other tribal allocations.

Final allocations of power for non-Native American utility and nonutility allottees are listed here.

Non-Native American utility and nonutility allottees	Final Post-2004 power allocation			
	Summer kilowatthours	Winter kilowatthours	Summer kilowatts	Winter kilowatts
City of Chapman, KS	254,099	167,487	158	115
City of Elwood, KS	167,205	146,045	104	100
City of Eudora, KS	984,255	683,931	610	469
City of Fountain, CO	3,733,271	2,840,741	2,316	1,947
City of Garden City, KS	3,733,271	2,840,741	2,316	1,947
City of Goodland, KS	1,566,184	1,216,583	972	834
City of Horton, KS	434,979	313,926	270	215
City of Hugoton, KS	743,402	630,379	461	432
City of Johnson City, KS	440,463	336,772	273	231
City of Meade, KS	497,516	313,427	309	215
City of Minneapolis, KS	537,092	339,984	333	233
City of Troy, KS	192,401	150,826	119	103
Doniphan Electric Cooperative Association, Inc., KS	460,699	384,738	286	264
Fort Carson, CO	3,144,463	2,648,172	1,951	1,815
Kaw Valley Electric, KS	3,288,355	2,458,719	2,040	1,685
Midwest Energy, Inc., KS	3,733,271	2,840,741	2,316	1,947
Nemaha-Marshall Electric Cooperative Association, Inc., KS	1,129,867	973,099	701	667
Regional Transportation District, Denver, CO	327,209	287,994	203	198
Sunflower Electric Power Corporation, KS	3,733,271	2,840,741	2,316	1,947
Yellowstone National Park, WY	220,999	145,946	137	100

The allocation change to the Wind River Reservation caused a reduction in the total pool available to non-Native American utility and nonutility allottees. Therefore, the final allocation of power to non-Native American utility and nonutility allottees was changed accordingly.

The final allocations of power shown in the tables above are based on the LAP marketable resource available at this time. If the LAP marketable resource is reduced in the future, all allocations will be adjusted accordingly. Long-term firm energy with associated capacity made available for marketing because an allocation(s) has been reduced or withdrawn may be administratively reallocated by Western's Administrator without further public process.

IV. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

V. Review Under the National Environmental Policy Act

Western has completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995). Western's NEPA review assured all environmental effects related to this process have been analyzed.

VI. Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866 (58 FR 51735). Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget (OMB) is required.

VII. Determination Under the Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: December 18, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 02–618 Filed 1–9–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7127–5]

FY2002–2003 Great Lakes National Program Office Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: EPA's Great Lakes National Program Office (GLNPO) is now requesting the submission of Proposals for GLNPO funding through the *''FY2002–2003 Great Lakes National Program Office Request for Proposals''* (RFP). The RFP solicits Proposals for assistance projects in the areas of Contaminated Sediments, Pollution Prevention and Reduction, Ecological (Habitat) Protection and Restoration, Invasive Species, Habitat Indicator Development, and Emerging or Strategic Issues.

DATES: The deadline for submission of Proposals is February 15, 2002.

Document Availability: The RFP is available on the Internet at *http://www.epa.gov/glnpo/fund/2002guid/*. It is also available from Lawrence Brail (312–886–7474/*brail.lawrence@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Mike Russ, EPA-GLNPO, G–17J, 77 West Jackson Blvd., Chicago, IL 60604 (312–886–4013/*russ.michael@epa.gov*).

SUPPLEMENTARY INFORMATION: USEPA's Great Lakes National Program Office is targeting a total of $2.9 million to award in the summer and fall of FY 2002 for Great Lakes projects pertaining to: Contaminated Sediments; Pollution

Prevention and Reduction (Binational Toxics Strategy); Ecological (Habitat) Protection and Restoration; Invasive Species; Habitat Indicator Development; and Strategic or Emerging Issues. Assistance (through grants, cooperative agreements, and interagency agreements) is available pursuant to Clean Water Act section 104(b)(3) for activities in the Great Lakes Basin and in support of the Great Lakes Water Quality Agreement. State pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, and organizations are eligible to apply. Potential applicants can find the Request for Proposals, including evaluation criteria and the Proposal development and submittal program, on the Internet at http://www.epa.gov/glnpo/fund/2001guid/.

Dated: December 20, 2001.

Gary V. Gulezian,

Director, Great Lakes National Program Office.

[FR Doc. 02–625 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34143C; FRL–6817–5]

Dimethoate; Receipt of Requests for Amendments and Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The companies that distribute technical dimethoate, O,O- dimethyl S-(*N*-methylcarbamoylmethyl) phosphorodithioate for formulation of pesticide products containing dimethoate have asked EPA to amend their manufacturing-use product registrations. In addition, the companies holding end-use registrations have asked EPA to cancel or amend their registrations for end-use products containing dimethoate to delete all uses with possible residential exposures. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requests for voluntary cancellation were submitted to EPA in April to December 2001. EPA intends to grant the requested cancellations and amendments to delete uses. EPA also plans to issue a cancellation order for the deleted uses and the canceled registrations at the close of the comment period for this announcement. Upon the issuance of the cancellation order, any distribution, sale, or use of dimethoate products listed in this Notice will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments on the requested amendments to delete uses and the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34143C. Comments must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34143C in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8180; fax number: (703) 308–7042; e-mail address: dobak.pat@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stocks provisions that will be set forth in the cancellation order that the Agency intends to issue at the close of the comment period for this announcement.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use dimethoate products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for dimethoate, go to the Home Page for the Office of Pesticide Programs or go directly http://www.epa.gov/pesticides/op/dimethoate.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34143C. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34143C in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34143C. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses.

A. Background

In a letter dated August 3, 2001, Cheminova Agro F/S, the manufacturer of technical dimethoate, requested cancellation of all residential and certain agricultural uses from their dimethoate products. In addition, the other registrants holding pesticide registrations for manufacturing-use products containing dimethoate also requested label amendments in order to exclude these uses. The registrants holding pesticide registrations for end-use products containing dimethoate requested label amendments removing these uses from their products. Since several of these products were marketed solely for retail (residential) uses, several registrants requested that EPA cancel these registrations. EPA intends to grant the requested cancellations at the close of the comment period for this announcement. Pursuant to section 6(f)(1) of the FIFRA, EPA is announcing the Agency's receipt of these requests and EPA's intention to amend dimethoate registrations to delete all residential and certain agricultural uses which are identified in the following Table 1.

TABLE 1.—DIMETHOATE USES THAT ARE VOLUNTARILY CANCELLED OR DELETED BY THE REGISTRANTS

Residential and Public Area Uses	Agricultural Uses
Any use in or around a structure used as a residence or domestic dwelling, or on any articles or areas associated with such structures (including household contents, home gardens, and home greenhouses).	Housefly treatments on farm buildings and structures, farm animal quarters, and manure piles.
Any use in public or private building or structure (including recreational facilities, theaters, hotels, resorts, or other buildings used for public accommodation, or in any other commercial, industrial, or institutional building), or on any articles or areas associated with such structures, including refuse areas, building contents, and landscaping and playgrounds.	

The Agency recognizes that dimethoate use on outdoor commercial ornamental tree, shrub and annual plant production areas is being supported by the technical registrants. While use on ornamentals in other settings is no longer being supported, outdoor commercial ornamental production areas may remain on dimethoate labels.

B. Requests for Voluntary Cancellation of Manufacturing-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend the registrations of their pesticide end-use products containing diazinon to delete certain uses from certain products. The following Table 2 identifies the registrants and the product registrations that they wish to amend to remove the uses listed in Table 1.

TABLE 2.—MANUFACTURING-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration No.	Product
Cheminova Agro F/S	4787–7	Chemathoate Technical
BASF Corporation	7969–32	Perfekthion Manufactures' Technical
Gowan Company	10163–211	Gowan Dimethoate Technical
Drexel Chemical Company	19713–209	Drexel Dimethoate Technical
Platte Chemical Company Inc.	34704–788	Dimethoate Technical
Micro-Flo Company LLC	51036–279	Dimethoate Technical

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. The aforementioned companies have requested to amend their registrations and have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. EPA expects to grant the requested cancellations at the close of the comment period for this announcement.

C. Requests for Voluntary Cancellation of End-Use Products

In addition to requesting voluntary cancellation of manufacturing-use products, registrants holding registrations for dimethoate end-use products have requested voluntary cancellation of the following end-use product registrations containing dimethoate. The end-use products for which cancellation was requested are identified in Table 3.

TABLE 3.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration No.	Product
Bonide Products, Inc.	4–256	Bonide Systemic Insecticide
Value Garden Supply, LLC	70–113 192–134 5887–128	Kill-Ko Cygon 2–E Systemic Insecticide Drexol Cygon Systemic Insecticide Black Leaf Cygon 2–E
Rockland Corporation	572–224	Rockland Residual Fly Spray
Universal Cooperatives Inc.	1386–449	Cygon 2E Systemic Insecticide
AMVAC Chemical Corporation	5481–54	ALCO Cygon 2 E
Celaflor GMBH	69129–3	Celaflor Rose Patch

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless (1) the registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. In this case, all of the registrants have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested cancellations. EPA expects to grant the requested cancellations at the close of the comment period for this announcement.

D. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, Dragon Chemical Corporation, Value Gardens Supply, LLC, Uniroyal Chemical Company Inc., Southern Agricultural Insecticides Inc., Universal Cooperatives Inc., Helena Chemical Company, Voluntary Purchasing Group Inc., BASF Corporation, Agriliance, LLC, Platte Chemical Company, Inc., Haco, Inc., Micro-Flo Company LLC, and Cheminova Agro F/S have also submitted a request to amend their other end-use registrations of pesticide products containing dimethoate to delete the uses described in Table 1 from any product bearing registered for such use. The registrations for which amendments to delete uses were requested are identified in the following Table 4.

TABLE 4.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration No.	Product
Dragon Chemical Corporation	16–160	Dragon Cygon 2–E Systemic Insecticide
Value Gardens Supply, LLC	769–948	Pratt Cygon 2–E Systemic Insecticide
Uniroyal Chemical Company Inc.	400–278	De-Fend E267 Dimethoate Systemic Insecticide
Southern Agricultural Insecticides, Inc.	829–251	SA–50 Brand Cygon 2–E Dimethoate Systemic Insecticide
Universal Cooperatives Inc.	1386–618 1386–625	Cygon 2–E Systemic Insecticide Dimethoate 267 EC Systemic Insecticide
Drexel Chemical Company	19717–232	Drexel Dimethoate 2.67
Helena Chemical Company	5905–493 5905–497	Dimethoate 4EC 5 lb. Dimethoate Systemic Insecticide
Voluntary Purchasing Group Inc.	7401–338	Hi-Yield Cygon
BASF Corporation	7969–38	Rebelate 2E Insecticide
Agriliance, LLC	9779–273	Dimate 4E
Platte Chemical Company, Inc.	34704–207 34704–489 34704–762 34704–762	Clean Crop Dimethoate 400 Dimethoate 2.67 EC Flygon 2–E Flygon 2–E
Haco, Inc.	2393–377	Cygon 2–E Systemic Insecticide
Micro-Flo Company LLC	51036–110 51036–198	Dimethoate 4E Cymate 267
Cheminova Agro F/S	67760–36 67760–44	Chemathoate 267 E.C. Systemic Insecticide Dimethoate 4W

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. These companies have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. EPA expects to grant the requested amendments to delete the uses described in Table 1 at the close of the comment period for this announcement.

III. Existing Stocks

The registrants have requested voluntary cancellation of the dimethoate registrations identified in Tables 2 and 3, and submitted amendments to amend registrations identified in Table 4 to delete uses of dimethoate identified in Table 1. Pursuant to section 6(f) of FIFRA, EPA expects to grant these requests for voluntary cancellation and amendment upon the close of the comment period. EPA anticipates that the cancellation order would allow for 1–year use of existing stocks, defined in EPA's existing stocks policy (56 FR 29362, June 26, 1991) as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and/or released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale, or use of existing stocks 1–year after the effective date of the amendment or cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental protection, Pesticides and pests.

Dated:January 2, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–631 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34165C; FRL–6817–3]

Disulfoton and Naled Receipt of Requests for Voluntary Cancellation of Products and Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from the registrants Bayer Corporation; Value Garden Supply, LLC; and Sergeant's Pet Products, Inc. to cancel some products and/or delete uses for products containing disulfoton, [O,O-diethyl S-(2-(ethylthio)ethyl) phosphorodithioate]; and naled, [1,2-dibromo-2,2-dichloro-ethyl dimethyl phosphate]. EPA received these requests for voluntary cancellation and use deletion in response to future reregistration eligibility decisions for these individual pesticides.

DATES: Comments on the requested registration cancellations and use deletions must be submitted to the address provided below and identified by docket control number OPP–34165C. Comments must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided under **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, you must identify docket control number OPP–34165C in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: For information concerning disulfoton contact: Christina Scheltema, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–2201; fax number: (703) 308–8041; e-mail address: scheltema.christina@epa.gov.

For information concerning naled contact: Tom Myers, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–8589; fax number: (703) 308–8041; e-mail address: myers.tom@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stock provisions that will be set forth in the cancellation order the Agency intends to issue at the close of the comment period for this announcement, absent adverse comments.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute or use disulfoton or naled products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person or persons listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Obtain Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the **Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34165C. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Record Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and When Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify a docket control number OPP–34165C in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), U.S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34165C. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of the information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses.

A. Background

EPA is publishing a single notice in response to registrants' requests to cancel products and/or delete product uses for disulfoton and naled from their labels. (See the table below for specific information regarding the cancellation or deletion requests).

Registration Eligibility Decision (RED) documents summarize the findings of EPA's reregistration process for individual chemical cases, and reflect the Agency's decisions on risk assessment and risk management for uses of individual pesticides. Naled and disulfoton belong to a group of pesticides known collectively as organophosphates (OPs). EPA will issue Interim Reregistration Eligibility Decisions assessing the risks of exposure from individual organophosphates in the near future. EPA will also consider the cumulative risks from all organophosphates, as they all share a common mechanism of toxicity affecting the nervous system by inhibiting *cholinesterase*.

Disulfoton is an insecticide first registered in 1961, to control a variety of pests affecting domestic indoor and outdoor potted plants and ornamentals, including herbaceous plants, flowers, woody shrubs and trees. Naled is an insecticide and acaricide first registered in the United States in 1959, primarily used to control mosquitos (70% of its use). As part of the reregistration process, Value Garden Supply, LLC and Bayer Corporation have elected to voluntarily cancel certain products and/or delete product uses from their product labels rather than develop the data necessary to support reregistration. Sergeant's Pet Products has requested voluntary cancellation of certain end-use product registrations.

EPA will consider any comments received within 30 days of publication of this notice in the **Federal Register** prior to cancelling affected uses.

B. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use and Technical Product Labels

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend some of their technical and/or end-use registrations of pesticide products containing disulfoton and naled, deleting the listed product(s) bearing such use. The registrations, for which amendments to delete products and/or uses were requested, are identified in the following table:

NOTICE FOR VOLUNTARY CANCELLATION OF REGISTERED USES

Chemical	PC Code	Company Address	Nature of Action	Products Affected (EPA Reg. #)	Uses Deleted
Disulfoton	032501	Bayer Corporation 8400 Hawthorn Road P.O. Box 4913 Kansas City, MO 64120–0013	Use deletions	Di-Syston Technical (3125–183) Di-Syston 68% Concentrate (3125–158) Di-Syston 15% (3125–172) Di-Syston 8 (3125–307)	Dry beans, peas and lentils, poplars grown for pulpwood, sorghum, soybeans, tobacco, triticale
Disulfoton	032501	Value Garden Supply, LLC Rt. 2 Box 956 New Castle, VA 24127	Product cancellations	Rigo Insyst-D (70–236) Pratt Noculate Systemic Insecticide Granule (769–850)	
Naled	034401	Sergeant's Pet Products, Inc. P.O. Box 18993 Memphis, TN 3818	Product cancellations	Sergeant's Sentry IV Flea and Tick Collar for Dogs (2517–43) Sergeant's Sentry IV for Cats (2517–44) Sergeant's Sentry V Flea and Tick Collar for Dogs (2517–45) Sergeant's Sentry V Tick Collar for Cats (2517–46)	

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses or request a voluntary cancellation of a product registration. The aforementioned companies have requested to amend their registrations and that EPA waive any applicable 180–day comment period that applies to cancellation and/or deletion of minor agricultural uses. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses or cancel product registrations. EPA intends to grant the requested amendments to delete uses or cancel

product registrations at the close of the comment period for this announcement.

III. Proposed Existing Stocks Provisions

The registrants have requested voluntary cancellation for the disulfoton and naled registrations identified in the table. EPA intends to grant the requests for voluntary cancellations and use deletions. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this announcement, the term ''existing stocks'' will be defined, as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently used in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. For disulfoton products, EPA intends to permit registrants of these products to distribute and sell existing stocks of cancelled products or products bearing deleted uses for 12 months from the effective date of cancellation. In the case of naled, the registrant has requested the effective date of cancellation to be March 1, 2002, as well as a provision for the sale or distribution of existing stocks until December 31, 2002. EPA intends to grant this request. The Agency also intends to permit all persons other than the registrant to sell, distribute, or use disulfoton or naled products until supplies are exhausted. Any distribution, sale, or use of existing stocks that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental protection, disulfoton, naled, use terminations/deletions, administrative practice and procedure, agricultural commodities, pesticides and pests.

Dated: January 2, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–629 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30519; FRL–6816–3]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30519, must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30519 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Driss Benmhend, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9525; and e-mail address: benmhend.driss@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30519. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30519 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30519. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File symbol number: 72994-E. Applicant: Gard Products, Inc., 250 Williams Road, Carpentersville, IL 60110. Product name: Silgard. Product type: Plant growth regulator. Active ingredient: Contains 0.35% of the new active ingredient sodium silver thiosulfate. Proposed classification/Use: For use as protector from ethylene effects on cut flowers.

2. File symbol number: 72994-R. Applicant: Same as above. Product name: Silgard Technical. Product type: Plant growth regulator. Active ingredient: Contains 0.35% of the new active ingredient sodium silver thiosulfate. Proposed classification/Use: For manufacturing use of end use products to be used to inhibit the effects of ethylene on cut flowers.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: December 26,2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–630 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7127–7]

Maryland State Prohibition on Discharges of Vessel Sewage; Final Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the Regional Administrator, Environmental Protection Agency (EPA) Region III has affirmatively determined, pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the navigable waters of Herring Bay, Anne Arundel County, and the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay), Worcester County, Maryland. Maryland will completely prohibit the discharge of sewage, whether treated or not, from any vessel in Herring Bay and in the northern Coastal Bays.

FOR FURTHER INFORMATION CONTACT: Edward Ambrogio, U.S. Environmental Protection Agency, Region III, Office of Ecological Assessment and Management, 1650 Arch Street, Philadelphia, PA 19103. Telephone: (215) 814–2758. Fax: (215) 814–2782. E-mail: *ambrogio.edward@epa.gov.*

SUPPLEMENTARY INFORMATION: These petitions were made jointly by the Maryland Department of the Environment (MDE) and the Maryland Department of Natural Resources (MDNR). Upon publication of this affirmative determination, Maryland will completely prohibit the discharge of sewage, whether treated or not, from any vessel in Herring Bay and in the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay) in accordance with

section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a). Notice of the Receipt of Petition and Tentative Determination was published in the **Federal Register** on October 17, 2001 (66 FR 52763, Oct. 17, 2001). Comments on the tentative determination were accepted during the 30-day comment period which closed on November 16, 2001. No comments were received. The remainder of this Notice summarizes the location of the no discharge zone, the available pumpout facilities and related information.

Herring Bay

The Herring Bay no discharge zone (NDZ) is a 3,145-acre area of water located along the western shore of the Chesapeake Bay in southern Anne Arundel County. The area includes Rockhold, Tracy, and Parker Creeks on the north and Rose Haven Harbor on the south. The NDZ includes tidal waters west of the following: beginning on Holland Point at or near 38°43′34.9″N latitude/76°31′37.3″W longitude, then running in a northerly direction to Crab Pile A at or near 38°46′33.0″N latitude/76°32′10.1″ W longitude, then running to a point on the north shore of Parkers Creek at or near 38°46′39.1″N latitude/76°32′10.8″W longitude.

The Herring Bay watershed is approximately 25 square miles. Although traditionally a farming area, several residential communities are located within the watershed including some that are located along the shoreline. Herring Bay is also a very popular recreational boating area and is home to 16 marinas containing 2,090 slips.

Long-term pollution problems that have impacted Herring Bay include failing septic systems, discharge from a private sewage treatment plant, and runoff from farm and other lands. With the number of marinas in the area, recreational boating is also a concern. The potential for bacterial contamination from all sources of pollution, including boat sewage, has resulted in the on-going closure of the oyster beds, however, recent water quality data does not show consistent high levels of fecal coliform in the area.

Currently, there are no public or private sewage treatment plants that impact Herring Bay. Although the Broadwater Wastewater Treatment Plant is north of Herring Bay and the Chesapeake Beach Wastewater Treatment Plant is south of Herring Bay, neither plant's discharges affect Herring Bay. Until very recently, there had, however, been a private treatment plant at Rose Haven which discharged into Herring Bay. That plant is now closed and the sewage from Rose Haven currently goes to the Chesapeake Beach Wastewater Treatment Plant.

Information submitted in the application states that there are a total of nine pumpout facilities currently in Herring Bay, of which eight provide portable toilet disposal through the use of a wand attachment to the pumpout hose. Eight of the nine pumpout facilities currently available to the general public are located at six marinas. Each of the six marinas is a privately owned facility that used Clean Vessel Act (75%) and state funds (25%) to install their pumpouts. Each facility that is open to the general public is limited to charging no more than $5.00 per pumpout. One of the nine pumpouts is located at a 61-slip marina and is only available to slipholders. To provide a conservative estimate of pumpout availability, this private pumpout was not included in the application's calculations. Also not included were two additional marinas that have applied for grant funding to install pumpouts which should become operational during the 2001 boating season. For the purposes of this application, therefore, there are a total of eight pumpouts in Herring Bay, of which seven provide portable toilet disposal. Maryland's boating season is generally considered to be from April 15 to November 15, with very little recreational boating activity occurring in the winter. For the few boats in Herring Bay that may need to be pumped out in the off-season, both of Herrington Harbour North's pumpouts and one of Herrington Harbour South's pumpouts are open throughout the year. The other pumpouts are open during the boating season only. For those marinas with wand attachments (all facilities except Sherman's), portable toilets may be emptied whenever the pumpouts are open. Details of these facilities' location, availability and hours of operation are as follows:

Gates Marine Services is an 88-slip facility located on Rockhold Creek north of the Deale Road bridge. The marina has a trailer mounted pumpout installation located at the travel lift. A wand attachment is used to empty portable toilets. The marina's sewage disposal hours of operation are 8:00 am–4:30 pm Monday through Friday, 8:00 am–4 pm Saturday and Sunday.

Harbor Cove Marina is a 78-slip facility located on Rockhold Creek north of the Deale Road bridge. The marina has a fixed pumpout installation which is located at the gas dock (''C'' dock). A wand attachment is used to empty portable toilets. The marina's sewage disposal hours of operation are 8:00 am–6:00 pm seven days per week.

Herrington Harbour North is a 670-slip marina located at the junction of Rockhold Creek and Tracy Creek in northern Herring Bay. The marina has a fixed pumpout installation which is located on the T head of ''D'' Dock and it also has a portable pumpout that is used for pumpouts throughout the marina. Both pumpouts utilize wand attachments to empty portable toilets. The marina's sewage disposal hours of operation are 9:00 am–5:00 pm seven days per week.

Herrington Harbour South is a 650-slip marina located on Rose Haven Harbor in southern Herring Bay. The marina has a fixed pumpout installation which is located on the fuel dock (''D'' Dock) and it also has a pumpout boat that travels throughout the marina pumping out both slip holders and transient vessels. Both pumpouts utilize wand attachments to empty portable toilets. The marina's sewage disposal hours of operation are 24 hours daily (self-serve) seven days per week, staffed 8:00 am–6:00 pm seven days per week between May 31 and September 7.

Sherman's Marina is a 26-slip facility located on Rockhold Creek north of the Deale Road bridge. The marina has a fixed pumpout installation which is located on the ''B'' dock. The marina's sewage disposal hours of operation are during daylight hours seven days per week.

Shipwright Harbor is a 250-slip facility located at the mouth of Rockhold Creek in northern Herring Bay. The marina has a fixed pumpout installation which is located near the travel lift. A wand attachment is used to empty portable toilets. The marina's sewage disposal hours of operation are 9:00 am–5:00 pm seven days per week.

Under Maryland law (Natural Resources Article § 8–707), each grant funded pumpout project must be approved by MDE. The MDE, in turn, consults with the local health/permitting authority to ensure that the proposed pumpout and sewage disposal method is in compliance with all applicable Federal and state laws. All six of the marinas in Herring Bay that have pumpouts open to the public, used grant funding to obtain their pumpouts (a total of eight pumpout facilities). All of these projects were approved by MDE upon the recommendation of the Anne Arundel County Department of Utilities. All six marinas discharge to either the

Chesapeake Beach Wastewater Treatment Plant, or to the Broadwater Wastewater Treatment Plant via either a direct connection, or by a licensed septage hauler.

The MDNR maintains records on the number and size of vessels registered and documented in Maryland's waters. In an attempt to estimate transient vessels in the area, a representative of the two largest marinas in Herring Bay was contacted and asked to estimate how many transient vessels, by size, are typically in Herring Bay on a typical high-volume day during the boating season. Included in the number of registered vessels are charter boats generally used for fishing. From this information, the vessel population of Herring Bay based on length is 638 vessels less than16 feet, 906 vessels between 16 and 26 feet, 1,111 vessels between 26 and 40 feet, and 158 vessels over 40 feet. Based on the number and size of boats, and using various methods to estimate the number of on-board holding tanks and portable toilets, it was determined that Herring Bay needs a total of five pumpouts and one dump station. As described above, Herring Bay is currently served by eight operational pumpouts, of which seven provide portable toilet disposal. Additionally, two other marinas (Paradise Marina and Rockhold Creek Marina) are actively participating in the pumpout grant program and should complete their installations by the start of the next boating season in early 2002.

Northern Coastal Bays

The proposed northern Coastal Bays no discharge zone (NDZ) was initially described to include all tidal waters north of the Ocean City Inlet, including Isle of Wight Bay and Assawoman Bay, defined by the points 38°19′23.83″N latitude/75°5′14.36″W longitude to 38°19′35.77″N latitude/75°06′27.68″W longitude, to the Delaware state line. Based upon a reevaluation of the spacial coordinates by MDNR, this NDZ has been slightly expanded and now includes the waters of the Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay, defined as follows: Ocean City Inlet—west of a line beginning at a point at or near the east end of the north Ocean City Inlet jetty, defined by 38°19′27.0″N latitude/75° 05′5.5″W longitude; then running approximately 248° (true) to a point at or near the east end of the south Ocean City Inlet jetty, defined by 38°19′20.7″N latitude/75°05′24.9″W longitude; and, Sinepuxent Bay—north of a line beginning at a point at or near the shore of the southeast entrance of the Ocean City commercial fish harbor (Swordfish Basin), defined by 38°19′37.0″N latitude/75°06′ 6.0″W longitude; then running approximately 110° (true) to a point at or near the shore at the northwest tip of Assateague Island, defined by 38°19′32.0″N latitude/ 75°05′49.0″W longitude; and, Maryland-Delaware Line—south of the Maryland-Delaware line beginning at a point at or near the east side of Assawoman Bay, defined by 38°27′4.5″N latitude/ 75°04′11.2″W longitude; then running approximately 270° (true) to a point at or near the west side of Assawoman Bay, defined by 38°27′4.4″N latitude/ 75°05′9.3″W longitude.

The Maryland Coastal Bays are comprised of five large tidal bays (Assawoman, Isle of Wight, Sinepuxent, Newport, and Chincoteague) that are bounded by two barrier islands (Fenwick and Assateague). The drainage basin feeding into the watershed is 117,939 acres and is characterized by poor flushing ability due to two narrow inlets. The land surrounding the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay) is primarily agriculture, forested or marsh but also includes the largest percentage of developed land surrounding all five Coastal Bays (Ocean Pines and Ocean City). The population of Worcester County is expected to increase significantly over the next 10 years and reach 50,000 before the year 2010. Currently, Worcester County is the second fastest growing county in the state.

In 1996 the MDE listed the northern Coastal Bays (specifically Assawoman and Isle of Wight) on the Clean Water Act Section 303(d) impaired waters list as a priority area for excessive nutrients, low dissolved oxygen, and elevated fecal coliform counts. MDE is currently in the process of having a Total Maximum Daily Load (TMDL) model calculated for the above listed substances. The St. Martin's River, a large freshwater tributary leading to the Isle of Wight Bay, along with Herring and Turville Creeks are currently listed as ''restricted for shellfish harvest'' by MDE as well.

There is one wastewater treatment plant, located within the residential community of Ocean Pines, that discharges treated effluent into the Isle of Wight Bay. The Ocean City Wastewater Treatment Plant in Ocean City discharges treated effluent several miles offshore into the Atlantic Ocean.

Information submitted in the application states that there are a total of nine pumpout facilities currently in the northern Coastal Bays, of which five provide portable toilet disposal through the use of a wand attachment to the pumpout hose or at dump stations. Eight of the nine pumpout facilities that are available to the general public, as well as all facilities that provide portable toilet disposal are located at six marinas. Each of the six marinas is a privately owned facility; four used Clean Vessel Act (75%) and state funds (25%) to install their pumpouts. These four marinas are limited to charging no more than $5.00 per pumpout. One of the nine pumpouts is located at a marina that is only available to slipholders. To provide a conservative estimate of pumpout availability, this private pumpout was not included in the application's calculations. Also not included was one additional marina that applied for grant funding to install a pumpout which should become operational during the 2002 boating season. For the purposes of this application, therefore, there are a total of eight pumpouts in the northern Coastal Bays, of which five provide portable toilet disposal via a wand attachment or a dump station. Maryland's boating season is generally considered to be from April 15 to November 15, with very little recreational boating activity occurring in the winter. For the few boats in the northern Coastal Bays that may need to be pumped out in the off-season, Advanced Marina's pumpout is open throughout the year. The other pumpouts are generally open during the boating season only. Details of these facilities' location, availability and hours of operation are as follows:

Advanced Marina is a 60-slip marina located at 66th St., Ocean City on Isle of Wight Bay. The marina has a portable pumpout unit and potty wand attachment for emptying portable toilets. The marina's sewage disposal hours of operation are 8:00am–8:00pm seven days per week, all year.

Harbour Island Marina is a 110-slip marina located at 14th St., Ocean City on Isle of Wight Bay. The marina has one fixed pumpout unit at the entrance to the marina and one potty wand attachment for emptying portable toilets. The marina's sewage disposal hours of operation are 6:00am–8:00pm seven days per week, from May through September.

Ocean City Fishing Center is a 240-slip marina located near the Route 50 bridge in West Ocean City on the Isle of Wight Bay. The marina has one fixed pumpout unit located next to the marina office. The marina's

sewage disposal hours of operation are 5:00am–8:00pm seven days per week, from May through September.

Ocean Pines Marina is an 86-slip marina located near the Route 90 bridge in Ocean Pines on the St. Martins River. The marina has one fixed pumpout located at the end of pier A. The marina's sewage disposal hours of operation are 8:00am–6:00pm Monday through Friday, 7:00am–7:00pm Saturday and 7:00am–6:00pm Sunday, from May through October.

Sunset Marina is a 204-slip marina located at the Ocean City Inlet in West Ocean City on Isle of Wight Bay. The marina has one fixed pumpout with two remote stands, each at the end of successive piers, one portable unit with potty wand attachment for emptying portable toilets, and one dump station on the bulkhead. The marina's sewage disposal hours of operation are 9:00am–5:00pm seven days per week, from May through September.

Townes of Nantucket II is a 92-slip marina located at Nantucket Point near the Delaware state line in Ocean City on Assawoman Bay. The marina has one fixed pumpout and one dump station for portable toilets, both located at the ''A'' bulkhead. The marina's sewage disposal hours of operation are 24 hours a day, seven days per week, from April through October.

Marinas participating in the Maryland Pumpout Program are required by law (Natural Resources Article § 8–707) to have an approved method of sewage disposal as determined by MDE and local (county or municipal) health inspectors. Four of the six marinas participated in the Maryland Pumpout Program, and therefore are in compliance with state and Federal laws. Information about the removal of pumpout waste from the other two marinas was obtained through marina surveys. Of the six marinas described above, five discharge to the Ocean City Wastewater Treatment Plant; the remaining marina discharges to the Ocean Pines Wastewater Treatment Plant.

The MDNR maintains records of all documented and registered boats in the state. In order to estimate the number of transient boaters, several methods were employed. First a marina survey was conducted where marina owners were asked to estimate the percentage of transient boaters that utilize their facility and the northern Coastal Bays. Second, information collected from a 1999 aerial survey of the northern Coastal Bays, conducted by the MDNR Fisheries Department, was used to determine types and sizes of boats using the waters on a peak day in-season. Finally, a land survey was conducted where MDNR employees surveyed Coastal Bay vessel usage on a typical day during the season. All of these methods were employed to come up with a best estimate for transient usage. It was estimated, using the above techniques, that Ocean City/northern Coastal Bays have approximately 10,000 wet slips. It was also assumed that the transient boat population mirrored the resident population as far as relative percent of the size and numbers of boats. Based on this information the vessel population of the northern Coastal Bays based on length is 2,800 vessels less than 16 feet, 6,600 vessels between 16 and 26 feet, 600 vessels between 26 and 40 feet, and 100 vessels over 40 feet. Based on the number and size of boats, and using various methods to estimate the number of holding tanks and portable toilets, it was determined that the northern Coastal Bays need three pumpouts and five dump stations. There are currently eight operating pumpouts and one proposed pumpout in the northern Coastal Bays along with two dump stations and three pumpouts equipped to empty portable toilets making a total of five portable toilet waste facilities. There is also one proposed pumpout that would accept portable toilets by the start of the next boating season in early 2002.

Finding

The EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Herring Bay, Anne Arundel County, Maryland, and the northern Coastal Bays (Ocean City Inlet, Ocean City commercial fish harbor (Swordfish Basin), Isle of Wight Bay and Assawoman Bay), Worcester County, Maryland. This final determination will result in a Maryland state prohibition of any sewage discharges, whether treated or not, from vessels into Herring Bay and the northern Coastal Bays.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 02–627 Filed 1–9–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, January 15, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, January 17, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Revised Draft Advisory Opinion 2001–17: DNC Services Corporation/Democratic National Committee by counsel, Neil Reiff.

Draft Advisory Opinion 2001–18: BellSouth Corporation by counsel, Jan Witold Baran.

Draft Advisory Opinion 2001–19: Oakland Democratic Campaign Committee by Gary Kohut, Chair.

Administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–776 Filed 1–8–02; 2:32 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Policy on Use of Potassium Iodide (KI)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of revised Federal policy.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) has revised the 1985 Federal policy regarding the use of potassium iodide (KI) as a thyroidal blocking agent by emergency workers, institutionalized persons and the general public in the vicinity of nuclear power plants. This policy is for use by State [1] and local

[1] Consistent with FEMA initiative 4.0–4.4, Include Native American Tribal Nations in the REP

Continued

agencies responsible for radiological emergency planning and preparedness in the unlikely event of a major radiological emergency at a commercial nuclear power plant.

The Federal position is that KI should be stockpiled and distributed to emergency workers and institutionalized persons for radiological emergencies at a nuclear power plant and its use should be considered for the general public within the 10-mile emergency planning zone (EPZ) of a nuclear power plant. However, the decision on whether to use KI for the general public is left to the discretion of States and, in some cases, local governments.

EFFECTIVE DATE: The modifications to this policy are effective January 10, 2002.

FOR FURTHER INFORMATION CONTACT: Russell Salter, Chair, Federal Radiological Preparedness Coordinating Committee; (202) 646–3030; *russ.salter@fema.gov.*

SUPPLEMENTARY INFORMATION:

Background

This revised Federal policy on the use of potassium iodide as a thyroidal blocking agent for the general public in the vicinity of nuclear power plant 10-mile emergency planning zones is part of a Federal interagency effort coordinated by FEMA for the FRPCC. FEMA chairs the FRPCC and assumes the responsibility for this publication. The FRPCC is an interagency organization, with membership from 17 Federal agencies, established to coordinate all Federal responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies.

The issue is addressed in terms of two components of the population that might require or desire potassium iodide use: (a) Emergency workers and institutionalized individuals, and (b) general population. With respect to emergency workers and institutionalized individuals, the Nuclear Regulatory Commission (NRC) and FEMA have issued guidance to State and local authorities, as well as to licensees of operating commercial nuclear power plants, in NUREG–0654/FEMA–REP–l, Rev.1. The NUREG and FEMA guidance recommends the stockpiling and distribution of KI to emergency workers and to institutionalized individuals for thyroidal blocking during emergencies. The guidance provides information regarding protective actions to be taken in the event of an incident at a commercial nuclear power plant. NUREG 0654 and the 1985 FRPCC KI policy recommend thyroidal blocking for emergency workers and institutionalized individuals because they are thought to be more likely than other members of the public to be exposed to the radioiodine in an airborne radioactive release.

The decision for using KI as a protective measure for the general public is left to the discretion of States, or in some cases, local governments, since these entities are ultimately responsible for the protection of their citizens. The policy guidance in this **Federal Register** notice is intended for State and local governments that, within the limits of their authority, should consider these recommendations in the review of their emergency plans and in determining appropriate actions to protect the general public. In making a decision whether to stockpile KI, the States should be aware that the Federal government believes that the use of KI is a reasonable and prudent measure as a supplemental protective action for the public.

Revision of the policy to include members of the public reflects lessons learned from the Chernobyl Nuclear Power Plant accident of 1986, both about the consequences of an accident and about the safety and efficacy of KI. The Chernobyl accident demonstrated that thyroid cancer can indeed be a major result of a large reactor accident. Based on the experiences from Chernobyl, young children are at greatest risk of thyroid cancer from radioactive iodine exposure. Moreover, although the Food and Drug Administration (FDA) declared KI ''safe and effective'' as long ago as 1978, the drug had never been deployed on a large scale until Chernobyl. The experience of Polish health authorities during the accident has provided confirmation that large-scale deployment of KI is safe.[2] The Chernobyl experiences also led to wide-scale changes in international practice, specifically 1989 World Health Organization recommendations (updated in 1995 and 1999) and 1996 and 1997 International Atomic Energy Agency standards and guidance, which have led to the use of KI as a supplementary protective measure in much of Europe, as well as in Canada and Japan.

The NRC published changes to its emergency planning regulations at 66 FR 5441–5443, January 19, 2001. For States within the 10-mile planning zone of a nuclear power plant(s), the NRC believes that the use of KI is a reasonable and prudent measure as a supplement to sheltering and evacuation and in response to specific local conditions. The NRC requires consideration in the formulation of emergency plans as to whether to include the use of KI as a supplemental protective measure.

The FDA has evaluated the medical and radiological risks of administering KI for emergency conditions, has concluded that it is safe and effective, and has approved over-the-counter sale of the drug for this purpose. FDA has concluded that ''* * * the effectiveness of KI as a specific blocker of thyroid radioiodine uptake is well-established as are the doses necessary for blockage. As such, it is reasonable to conclude that KI will likewise be effective in reducing the risk of thyroid cancer in individuals or populations at risk for inhalation or ingestion of radioiodines.'' Since the FDA has authorized the nonprescription sale of KI, it may be available to individuals who, based on their own personal analysis, choose to have the drug immediately available. The FDA guidance is the definitive Federal guidance on medical aspects of KI prophylaxis.

Considerations

In making a decision whether to stockpile KI, States should be aware that the Federal government believes that the use of KI is a reasonable and prudent measure as a supplemental protective action for the public.

While there may be logistical difficulties in providing KI to the general public, any distribution scheme should take care to ensure that KI distribution does not impede or delay orderly evacuation. There also may be a few medical side effects in pre-distributing the drug to potentially affected individuals or in distributing the drug to the general public in a radiological emergency. Although the post-Chernobyl data from Poland revealed few serious medical side effects associated with this drug, this possibility cannot be discounted, especially in certain groups of people. For example, people who are allergic to iodine should not take KI.

Other considerations to be evaluated by the State and local authorities in deciding whether to institute a program for the use of KI by the general public

Preparedness Process, references to State governments include Tribal governments.

[2] Nauman, J., and Wolff, J., Iodide Prophylaxis in Poland After the Chernobyl Reactor Accident: Benefits and Risks, American Journal of Medicine, Vol. 94, p. 524, May 1993.

include: (a) Whether KI should be distributed to the population before an accident occurs or as soon as possible after an accident occurs; (b) whether the risks of exposure to radioactivity will be lower if the evacuation of the general population is initiated—with or without the use of KI—or if the general population is sheltered and the administration of KI initiated; (c) how KI will be distributed during the emergency; (d) if KI is pre-distributed, what assumptions should be made about its actual availability and use in the event of an incident; (e) what medical assistance will be available for the individuals who may have some adverse reaction to KI; (f) how medical authorities will advise the population to take KI and under what circumstances this advice will be given, i.e., methods for public education, information and instruction; and (g) how the authorities will provide KI to transient populations.

In addition, there are some site-specific considerations to evaluate. Any decision by State and local authorities to use KI following a specific emergency should be based on the site environment and conditions for the specific operating commercial nuclear power plant and would include detailed plans for distribution, administration and medical assistance.

Revised Policy

In most cases, evacuation and in-place sheltering are considered adequate and effective protective actions for the general public in the event of a radiological emergency at a commercial nuclear facility. However, the inclusion of KI as a supplemental protective measure is beneficial in certain circumstances. It should be noted that the timely use of KI effectively reduces the radiation exposure of only the thyroid gland. While this is an important contribution to the health and safety of the individual, it is not as effective as measures that protect the total body of the individual from radioactivity. Both in-place sheltering and precautionary evacuations can reduce the exposure to the thyroid and total body. The use of KI for thyroidal blocking is not an effective means by itself for protecting individuals from the radioactivity in an airborne release resulting from a nuclear power plant accident and, therefore, should only be considered in conjunction with sheltering or evacuation, or a combination thereof.

While the use of KI can clearly provide additional protection in certain circumstances, the assessment of the effectiveness of KI and other protective actions and their implementation indicates that the decision to use KI (or other protective actions) should be made by the States and, when appropriate, local authorities on a site-specific basis. Thus, the decision on use of KI by the general public during an actual emergency is the responsibility of these authorities.

In summary, the Federal position is that KI should be stockpiled and distributed to emergency workers and institutionalized persons for radiological emergencies at a nuclear power plant, and its use should be considered for the general public within the 10-mile EPZ of a nuclear power plant. However, the decision on whether to use KI for the general public is left to the discretion of States and, in some cases, local governments.

This revised policy should not be taken to imply that the present generation of U.S. nuclear power plants is any less safe than previously thought. On the contrary, present indications are that nuclear power plant safety has steadily improved.

References

The following references are intended to assist State and local authorities in decisions related to use of KI:

1. Nuclear Regulatory Commission, final rule, Consideration of Potassium Iodide in Emergency Plans, 66 FR 5427, January 19, 2001.

2. World Health Organization, Guidelines for Iodine Prophylaxis Following Nuclear Accidents, 1999. Http://www.who.int/environmental information/Information_resources/documents/Iodine/guide.pdf.

3. National Council on Radiation Protection and Measures (NCRP) Protection of the Thyroid Gland in the Event of Releases of Radioiodine. NCRP Report No. 55, August 1, 1977.

4. Food and Drug Administration (Health and Human Services), Potassium Iodide as a Thyroid-Blocking Agent in a Radiation Emergency, 43 FR 58798, December 15, 1978.

5. Food and Drug Administration, Notice, Guidance on Use of Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies; Availability, 66 FR 64046, December 11, 2001.

6. Report of the President's Commission on the Accident at Three Mile Island, National Technical Information Service, Springfield, VA 22161.

7. Federal Emergency Management Agency, Federal Policy on Distribution of Potassium Iodide Around Nuclear Power Sites for Use as a Thyroidal Blocking Agent, 50 FR 30258, July 24, 1985.

8. Nauman, J., and Wolff, J., Iodide Prophylaxis in Poland After the Chernobyl Reactor Accident: Benefits and Risks, American Journal of Medicine, Vol. 94, p. 524, May 1993.

9. International Atomic Energy Agency, International Basic Safety Standards for Protection Against Ionizing Radiation and for Safety of Radiation Sources. Safety Series No. 115, 1996.

Dated: January 2, 2002.

Joe M. Allbaugh,

Director.

[FR Doc. 02–637 Filed 1–9–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 4, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to merge with Century Bancshares, Inc., Eden Prairie, Minnesota, and thereby indirectly acquire 100 percent of the voting shares of Century Bank, Eden Prairie, Minnesota.

2. Illini Corporation, Springfield, Illinois; to acquire 100 percent of the voting shares of Illinois Community Bancorp, Inc., Effingham, Illinois, and thereby indirectly acquire Illinois Community Bank, Effingham, Illinois.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Western Sierra Bancorp, Cameron Park, California; to acquire 100 percent of the voting shares of Central California Bank, Sonora, California.

Board of Governors of the Federal Reserve System, January 4, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–567 Filed 1–9–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10 a.m. (EST), January 22, 2002.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the December 10, 2001, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of KPMG LLP audit report: Executive Summary of the Fiduciary Oversight Program for the Thrift Savings Plan as of September 30, 2001.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: January 8, 2002.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 02–793 Filed 1–8–02; 3:23 pm]

BILLING CODE 6760–01–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Harry S. Truman Scholarship 2002 Competition

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice of closing for nominations from eligible institutions of higher education.

SUMMARY: Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for 2002 Truman Scholarships. Procedures are prescribed at 45 CFR 1801.

In order to be assured consideration, all documentation in support of nominations must be received by the Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006 no later than January 28, 2002 from participating institutions.

Dated: January 3, 2002.

Louis H. Blair,

Executive Secretary.

[FR Doc. 02–593 Filed 1–9–02; 8:45 am]

BILLING CODE 6820–AD–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry; Public Meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in Association With the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

Name: Public meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in association with the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Time and Date: 9 a.m.–4 p.m., January 23, 2002.

Place: WestCoast Tri-Cities Hotel, 1101 North Columbia Center Blvd., Kennewick, WA. Telephone: (509) 783–0611.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 25 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in September 2000 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC. Community Involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ICHHP is part of these efforts. The ICHHP will work with the HHES to provide input on American Indian health effects at the Hanford, Washington site.

Purpose: The purpose of this meeting is to address issues that are unique to tribal involvement with the HHES, and agency updates.

Matters To Be Discussed: Agenda items will include a dialogue on issues that are unique to tribal involvement with the HHES. This will include presentations and discussions on each tribal members respective environmental health activities, and agency updates. Agenda items are subject to change as priorities dictate.

For Further Information Contact: Alan Crawford, Executive Secretary, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE M/S E–54 Atlanta, Georgia 30333, telephone 1–888–42–ATSDR (28737), fax 404/498–1744.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office.

[FR Doc. 02–609 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the President Advisory Council on HIV/AIDS

January 3, 2002.

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Presidential Advisory Council on HIV/AIDS (Council) scheduled for January 28–29, 2001, at the White House Conference Center at 726 Jackson Place NW. The Council will meet both days from 8:30 a.m. until 5 p.m. The meetings will be open to the public, however space is limited. Possible attendees are strongly encouraged to pre-register by calling Shellie Abramson at (202) 260–8863.

Patricia Ware, Executive Director, Presidential Advisory Council on HIV and AIDS, 200 Independence Avenue, SW., Room 733–E, Washington, DC, (Voice-mail: (202) 205–2982, Fax: (202) 690–7560) will furnish the meeting agenda and roster of Council members upon request. Once a draft agenda has been finalized, it may also be accessed through the Council's website: *www.pacha.gov.* Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mike Starkweather at (301) 628–3141 no later than January 23, 2001.

Patricia Ware,

Executive Director, Presidential Advisory Council on HIV and AIDS.

[FR Doc. 02–641 Filed 1–9–02; 8:45 am]

BILLING CODE 3195–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Public Health and Science; Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AC ''Office of Public Health and Science'' as last amended at 66 FR 40288, dated August 2, 2001; is being amended to rename the Office of International and Refugee Health (ACH) and to incorporate the functions for international affairs presently in the Immediate Office of the Secretary, including the Exchange Visitor Waiver Review Board (45 CFR part 50), into the renamed Office of Global Health Affairs. The changes are as follows:

I. Under Part A Chapter AC, ''Office of Public Health and Science,'' make the following changes:

A. AC.10 Organization. Rename the ''Office of International and Refugee Health'' (ACH) as the ''Office of Global Health Affairs'' (ACH).

B. Under Paragraph AC.20 Functions, make the following changes:

1. Under Paragraph B, delete sentence (9) in its entirety and replace with the following: (9) Provides advice on international and refugee health policy and coordinates international health related activities and provides advice on a broad range of health activities that may be intra or interdepartmental in scope; coordinates and manages Departmental liaison with bilateral and multilateral health agencies; and on behalf of the Secretary, chairs and provides staff support for the Exchange Visitor Waiver Review Board;

2. Delete paragraph G. ''Office of International and Refugee Health (ACH)'' in its entirety and replace with the following:

G. Office of Global Health Affairs (ACH)—The Office of Global Health Affairs (OGHA) provides policy and staffing to the Assistant Secretary for Health, the Deputy Secretary and the Secretary for activities that are of a global nature, including international travel, meetings, and presentations. The Office of Global Health Affairs also has the following major functions: represents the Assistant Secretary for Health and the Secretary in international negotiations on health matters, coordinates and leads Departmental participation in the meetings of multilateral health organizations, including the World Health Organization, the Pan American Health Organization, UNICEF, UNAIDS and other international agencies; represents the Department in interagency working groups on international health issues; in consultation with appropriate OPDIV and STAFFDIV technical and political staff, clears all documents related to international health; reviews and approves international travel for all Departmental employees; promotes cooperative health programs with other countries; coordinates technical and policy-related federal input into refugee health issues; represents the Department on international health issues with other federal departments and agencies, international organizations, the private sector and foreign countries; carries out the Department's responsibilities under the U.S. Exchange Visitor Program; and, ensures protocol at all international functions/events.

Dated: December 10, 2001.

Ed Sontag,

Assistant Secretary for Administration and Management.

[FR Doc. 02–640 Filed 1–9–02; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Advisory Committee on Regulatory Reform; Request for Public Input; Correction

In the Notice document beginning on page 599 in the issue of Friday, January 4, 2002, make the following correction:

On page 600, in the first column the electronic address of the Committee's web site was inadvertently stated as *www.regreform.hh.gov.* The correct web site address is *www.regreform.hhs.gov.*

Dated: January 7, 2002.

John Gallivan,

Policy Coordinator.

[FR Doc. 02–642 Filed 1–9–02; 8:45 am]

BILLING CODE 4154–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 8 a.m.–5:30 p.m., January 24, 2002; 8 a.m.–4:30 p.m., January 25, 2002.

Place: WestCoast Tri-Cities Hotel, 1101 North Columbia Center Blvd., Kennewick, WA 99336. Telephone: (509) 783–0611.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in September 2000 between ATSDR and

DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to receive an update from the Inter-tribal Council on Hanford Health Projects; to review and approve the Minutes of the previous meeting; to receive updates from ATSDR/NCEH and NIOSH; to receive reports from the Outreach, Public Health Assessment, Public Health Activities, and the Studies Workgroups; and to address other issues and topics, as necessary.

Matters to be Discussed: Agenda items include a presentation and discussion on team building and consensus advise, ethics training video presentation, continued discussion of the Hanford Community Health Project, and agency updates. Agenda items are subject to change as priorities dictate.

For Further Information Contact: French Bell, Executive Secretary HHES, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE M/S E–54, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR(28737), fax 404/639–4699.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–605 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates: 8:30 a.m.–5:00 p.m., January 30, 2002; 8:30 a.m.–3:30 p.m., January 31, 2002.

Place: CDC, Koger Center, Williams Building, Conference Rooms 1802 and 1805, 2877 Brandywine Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters to be Discussed: The agenda will include updates from CDC, Food and Drug Administration and Centers for Medicare & Medicaid Services (formerly the Health Care Financing Administration), Unregulated Tests Workgroup report, waiver criteria, report on the Secretary's Advisory Committee on Genetic Testing, and manufacturer's pre-market clearance submission and good manufacturing practices.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Rhonda Whalen, Chief, Laboratory Practice Standards Branch, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop F–11, Atlanta, Georgia 30341–3724, telephone 770/488–8042, fax 770/488–8279.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–606 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health (NIOSH), Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: National Institute for Occupational Safety and Health (NIOSH), Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry.

Date and Time: 8 a.m.–5 p.m., February 12, 2002.

Place: Aljoya Conference Center of Laurelhurst, 3920 NE 41st Street, Seattle, WA, 98105–5428; Phone: 206–

268–7000. Web address: *http://www.aljoya.com/2ndtier.html.*

Status: Open to the public, limited only by space available. Seating will be limited to approximately 60 people. Due to limited conference space, notification of intent to attend the meeting must be made with Karen Tucker by no later than January 18, 2002. Ms. Tucker can be reached by telephone: 1–800–444–5234, ext 103 or by e-mail: *tucker@battelle.org.* Requests to attend will be accommodated on a first come basis.

Purpose: To request public assistance in identifying occupational hazards in the Health Services industry which NIOSH should target in a nationally representative survey called the National Exposures at Work Survey (NEWS). In addition, there will be a request for information about the procedures that could be used to gather information on specific health and safety hazards and practices from management and workers during the survey.

NIOSH's Surveillance Strategic Plan [1] calls for the conduct of a comprehensive, nationally representative hazard survey. To this end, NIOSH is planning to conduct the NEWS in a nationally representative sample of workplaces across all industries, starting with the Health Services industry. The purpose of the survey will be to collect data about exposures to occupational hazards and associated occupational groups, use of exposure controls, and management and employee health and safety practices. Prior to conducting the NEWS, a limited number of feasibility or pilot surveys will be necessary for evaluating tools and methods to be used in the NEWS. At this meeting, NIOSH will ask the attendees for their views on what specific hazards and occupational groups should be targeted in the NEWS, and how best to collect information from management and workers without significantly impacting normal business operations. NIOSH is seeking individual input from academicians, researchers, practitioners, government agencies, and others on addressing these topic areas.

Tracking Occupational Injuries, Illnesses and Hazards: The NIOSH Surveillance Strategic Plan. Department of Health and Human Services (NIOSH) Publication No. 2001–118.

For Further Information Contact Persons: James M. Boiano, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, Ohio 45226–1998, telephone 513–841–4246, fax 513–841–4489, e-mail *jboiano@cdc.gov.* Gregory M. Piacitelli, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone 513–841–4456, fax 513–841–4489, e-mail *gpiacitelli@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–604 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health, Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: National Institute for Occupational Safety and Health, Identify and Assess Priorities, Strategies and Methods for Surveillance of Health and Safety Hazards in the Health Services Industry.

Date and Time: 8 a.m.–5 p.m., February 27, 2002.

Place: Mt. Washington Conference Center, 5801 Smith Avenue, Baltimore, MD, 21209; Phone: 410–578–7964. Web Address: *http://conference-center.stpaul.com.*

Status: Open to the public, limited only by space available. Seating will be limited to approximately 60 people. Due to limited conference space, notification of intent to attend the meeting must be made with Karen Tucker by no later than January 18, 2002. Ms. Tucker can be reached by telephone at 1–800–444–5234, ext 103 or by E-mail *tucker@battelle.org.* Requests to attend will be accommodated on a first come basis.

Purpose: To request public assistance in identifying occupational hazards in the Health Services industry which NIOSH should target in a nationally representative survey called the National Exposures at Work Survey (NEWS). In addition, there will be a request for information about the procedures that could be used to gather information on specific health and safety hazards and practices from management and workers during the survey.

NIOSH's Surveillance Strategic Plan calls for the conduct of a comprehensive, nationally representative hazard survey. To this end, NIOSH is planning to conduct the NEWS in a nationally representative sample of workplaces across all industries, starting with the Health Services industry. The purpose of the survey will be to collect data about exposures to occupational hazards and associated occupational groups, use of exposure controls, and management and employee health and safety practices. Prior to conducting the NEWS, a limited number of feasibility or pilot surveys will be necessary for evaluating tools and methods to be used in the NEWS. At this meeting, NIOSH will ask the attendees for their views on what specific hazards and occupational groups should be targeted in the NEWS, and how best to collect information from management and workers without significantly impacting normal business operations. NIOSH is seeking individual input from academicians, researchers, practitioners, government agencies, and others on addressing these topic areas.

Tracking Occupational Injuries, Illnesses and Hazards: The NIOSH Surveillance Strategic Plan. DHHS (NIOSH) Publication No. 2001–118.

For Further Information Contact: James M. Boiano, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone 513–841–4246, fax 513–841–4489, E-mail: *jboiano@cdc.gov.* Gregory M. Piacitelli, MS, CIH, NIOSH, CDC, M/S R19, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone 513–841–4456, fax 513–841–4489, E-mail: *gpiacitelli@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 4, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–608 Filed 1–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Toxicology Models for Drug Evaluation.

Date: March 5, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Room 8049, Rockville, MD 20852, 301/594–9482.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 83.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–581 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Measurement of pO2 in Tissue In Vivo and In Vitro.

Date: January 25, 2002.

Time: 10 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter J. Wirth, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8021, Bethesda, MD 20892, 301/496–7565.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–582 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: January 11, 2002.

Time: 1 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, National Institute of Mental Health, DEA, National Institutes of Health, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1340, *rweise@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–583 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–52, Review of R13 Grants.

Date: January 10, 2002.

Time: 12 pm. to 2 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–38 Review of R13 Grants.

Date: January 16, 2002.

Time: 3 pm. to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Bldg., Conf. Rms. A&D, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–584 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Research Support and Animal Care Services''.

Date: January 24, 2002.

Time: 9:30 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: Hilton Towers Hotel, 20 West Baltimore Street, Baltimore, MD.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–585 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: January 22, 2002.

Time: 9 am. to 1 pm.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606 301–443–1513, *psherida@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–586 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 8, 2002.

Time: 12 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gloria B. Levin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, *leving@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 16, 2002.

Time: 3:30 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 3, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–587 Filed 1–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of Availability, Draft Environmental Assessment (DEA), Water System Improvements, Federal Riverdell Property, Duchesne and Uintah Counties, Utah.

SUMMARY: The Central Utah Project Completion Act Office proposes to rehabilitate and improve the water deliver system serving the Federal Riverdell property near Myton, Utah, to maintain and improve existing wetland habitats for fish and wildlife mitigation purposes. Three alternative concepts are evaluated, along with the No Action Alternative, without indicating a Proposed Action or preferred alternative. Public comment is invited on all alternatives. A Proposed Action will be developed based on environmental impacts and benefits of each alternative, costs, available funding, and public comments received.

One alternative would abandon the existing river diversion and canal delivery system and relocate the irrigation diversion downstream on the Duchesne River to a point nearer the property. Irrigation water would be delivered to the property from the new location by means of an electrically-powered pump and buried irrigation pipeline. Other features of this alternative include installing perforated drain pipe in a portion of the abandoned delivery canal to collect and redirect agricultural drainwater (that accumulates in and near the Riverdell Canal) through the Riverdell property and back to the Duchesne River.

In addition, a pair of rock sills would be constructed at a strategic location across the Duchesne River to divert high river flows into a remnant oxbow on the property, thereby recharging degraded wetlands formerly sustained by river flows. A second alternative evaluates a minimal cost option that abandons the existing diversion dam and canal, and relocates the point of diversion as in the first alternative. Irrigation water would be delivered to the property from the new location by means of an electrically powered pump and buried irrigation pipe. The third alternative would relocate the diversion point to an upstream location. A new diversion dam and buried pipeline would deliver water to the property by gravity flow along the existing canal alignment. Pumping of water would not be included in this alternative.

The public is invited to submit comments on the adequacy of the DEA and the assessment of environmental impacts. Comments received in response to this solicitation will be part of the public record and available for public review pursuant to the Freedom of Information Act (5 U.S.C. 552) and may be released to the public upon request. This will normally include names, addresses, and any other personal information provided with comments. Reviewers may request that personal information be withheld from such releases by so indicating in their letter of comment or by means of separate written communication.

DATES: The DEA will be available for public review and comment for a minimum of thirty (30) calendar days following the publication of this notice. The deadline for submittal of written comments on the DEA will be stated on the cover sheet of the document and noted in the transmittal letter to all reviewers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained by contacting Mr. Ralph G. Swanson, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo, UT 84606–6154, Telephone: (801) 379–1254, E-mail address: *rswanson@uc.usbr.gov*.

Dated: January 4, 2002.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 02–607 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Deadline for Submitting Completed Applications To Begin Participation in the Tribal Self-Governance Program in Fiscal Year 2003 or Calendar Year 2003

AGENCY: Office of Self-Governance, Interior.

ACTION: Notice of application deadline.

SUMMARY: In this notice, the Office of Self-Governance (OSG) establishes a March 1, 2002, deadline for tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in fiscal year 2003 or calendar year 2003.

DATES: Completed application packages must be received by the Director, Office of Self-Governance by March 1, 2002.

ADDRESSES: Application packages for inclusion in the applicant pool should be sent to the Director, Office of Self-Governance, U.S. Department of the Interior, Mail Stop 2548, 1849 C Street NW., Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, U.S. Department of the Interior, Office of Self-Governance, Mail Stop 2548, 1849 C Street NW., Washington DC 20240; Telephone 202–208–5734.

SUPPLEMENTARY INFORMATION: Under the Tribal Self-Governance Act of 1994 (Pub. L. 103–413), as amended by the Fiscal Year 1997 Omnibus Appropriations Bill (Pub. L. 104–208)

the Director, Office of Self-Governance may select up to 50 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into a written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the Bureau of Indian Affairs (BIA) agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe/consortium located in a region and/or agency which has not previously been involved with self-governance negotiations, will take approximately two months from start to finish. Agreements for an October 1 to September 30 fiscal year need to be signed and submitted by July 1. Agreements for a January 1 to December 31 fiscal year need to be signed and submitted by October 1.

Purpose of Notice

25 CFR parts 1000.10 to 1000.31 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in fiscal year 2003 and calendar year 2003. Applicants should be guided by the requirements in these subparts in preparing their applications. Copies of these subparts may be obtained from the information contact person identified in this notice.

Tribes/consortia wishing to be considered for participation in the tribal self-governance program in fiscal year 2003 or calendar year 2003 must respond to this notice, except for those which are (1) currently involved in negotiations with the Department; (2) one of the 80 tribal entities with signed agreements; or (3) one of the tribal entities already included in the applicant pool as of the date of this notice.

Dated: December 12, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–636 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–W8–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have requested renewal of scientific research and enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–051139

Applicant: Turner Endangered Species Fund, Cimarron, New Mexico.

The applicant requests a renewed permit to take black-footed ferrets (*Mustela nigripes*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–051140

Applicant: St. Louis Zoological Park, St. Louis, Missouri 63110.

The applicant requests a renewed permit to take Wyoming toads (*Bufo hemiophrys baxteri*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–049748

Applicant: Dr. Todd Crowl, Utah State University, Logan, Utah 84322.

The applicant requests a renewed permit to take razorback suckers (*Xyrauchen texanus*), Colorado pikeminnows (*Ptychocheilus lucius*), bonytail chub (*Gila elegans*), and June suckers (*Chasmistes liorus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Permit No. 047252

Applicant: Trent Miller, SWCA, Inc., Environmental Consultants, Westminister, Colorado 80031.

The applicant requests a renewed permit to take black-footed ferrets (*Mustela nigripes*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–045150

Applicant: Dr. William W. Hoback, University of Nebraska at Kearney, Kearney, Nebraska 68849.

The applicant requests a renewed permit to take American burying beetles (*Nicrophorus americanus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

DATES: Written comments on these requests for permits must be received February 11, 2002.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director—Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; telephone 303–236–7400, facsimile 303–236–0027.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone 303–236–7400.

Dated: December 20, 2001.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 02–603 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–670–5101–ER–B140; CACA–42662]

Notice of Availability of Final Environmental Impact Statement/ Environmental Impact Report and Proposed Amendments to the California Desert Conservation Area Plan and the Yuma District Resource Management Plan in Conjunction With the Proposed North Baja Pipeline Project

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement/ Environmental Impact Report and proposed amendments to the California Desert Conservation Area Plan (CDCA Plan) and the Yuma District Resource Management Plan in conjunction with the proposed North Baja Pipeline Project.

SUMMARY: This notice announces the availability of Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and proposed amendments to the California Desert Conservation Area Plan (CDCA Plan) and the Yuma District Resource Management Plan (Yuma RMP) in conjuction with the proposed North Baja Pipeline project. The proposed North Baja Pipeline project would provide natural gas supplies for new gas-fired electric power generation

serving the power grids in Baja California, Mexico and southern California, where there has been strong documented demand. The proposed North Baja Pipeline project extends from Ehrenberg, Arizona, through Riverside and Imperial Counties in California, south to the Mexican border. All federal lands affected by the proposed plan amendments are located in eastern Imperial County, California.

DATES: The Final EIS/EIR and proposed plan amendments will be available for public review and protest until February 10, 2002. Protests must be filed in accordance with the instructions described in the Supplemental Information section of this notice.

ADDRESSES: Director, Bureau of Land Management (WO–210, ms 1075LS), Attention: Brenda Hudgens-Williams, Protest Coordinator, 1620 L Street, NW, Washington, DC, 20236. Please send a copy of any protest along with all backup documentation to Lynda Kastoll, El Centro Field Office, 1661 South 4th St., El Centro, CA 92243.

FOR FURTHER INFORMATION CONTACT: For general information contact Lynda Kastoll, Project Manager, Bureau of Land Management El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243 (760) 337–4421.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission is the lead Federal agency on this project; BLM is a cooperating agency. The proposed amendment to the CDCA Plan would allow placement of pipeline outside of a designated utility corridor. The proposed Yuma RMP amendment would allow the placement of pipeline across portions of the Milpitas Wash Natural Area in which the RMP currently does not allow new utilities to be sited. A limited number of individual copies of the Final EIS/EIR and Plan Amendments may be obtained from BLM's El Centro Field Office. Copies are also available for inspection at the following locations:

(a). Public libraries in Blythe, Riverside and El Centro, California and in Yuma and Parker, Arizona

(b). Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, CA 95825

(c). Bureau of Land Management, El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243;

(d). Bureau of Land Management, Yuma Field Office, 2555 East Gila Ridge Road, Yuma, AZ 85365.

(e). Bureau of Land Management, California Desert District, 6221 Box Springs Boulevard, Riverside, California 92507.

(f). Federal Regulatory Energy Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426.

(g). California State Lands Commission, 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825–8202

In accordance with 43 CFR 1610.5–2, any person who participated in the planning process and believes they will be adversely affected by this plan amendment may protest the proposed amendment. The protest may raise only those issues which were submitted for the record during the planning process. The protest must be in writing and filed, on or before February 10, 2002, with the Director, Bureau of Land Management (WO–210, ms 1075LS), Attention: Brenda Hudgens-Williams, Protest Coordinator, 1620 L Street NW., Washington, DC, 20236. Please send a copy of any protest along with all backup documentation to Lynda Kastoll, El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243. In order to be considered complete, your protest must contain, at a minimum, the following information:

1. The name, mailing address, telephone number, and interest of the person filing the protest.

2. A statement of the issue or issues being protested.

3. A statement of the part or parts of the proposed plan amendment being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, maps, etc., included in the document.

4. A copy of all documents addressing the issue or issues that you submitted during the planning process or a reference to the date the issue or issues were addressed by you for the record.

5. A concise statement explaining why you believe the proposed plan amendment is wrong.

Dated: December 20, 2001.

J. Anthony Danna,

Acting State Director, California.

[FR Doc. 02–601 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[CA 668–02–1610–DO–083A]

Monument Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior; United States Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM) and United States Forest Service (USFS) announce a meeting of the Advisory Committee to the Santa Rosa and San Jacinto Mountains National Monument (hereinafter referred to as ''National Monument''). The meeting will be held on Monday, January 28, in the Hoover Room of the Education Center at the Living Desert, 47900 Portola Avenue, Palm Desert, California 92260. Meeting hours will be 8:30 a.m. until 4 p.m. The proposed agenda for the meeting will include a welcome and introductions followed by (1) an overview of the National Monument, (2) review of the National Monument advisory committee charter, (3) discussion of the guidelines and processes under which the advisory committee members will advise the BLM and USFS in the management and planning of the Monument, (4) election of committee chair and committee vice chairperson, (5) establishment of subsequent meeting schedule, and (6) a public question and answer period scheduled for 3 p.m.

The Monument Advisory Committee (MAC) is a committee of citizens appointed to provide advice to the BLM and USFS with respect to preparation and implementation of the management plan for the National Monument as required in the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (16 U.S.C. 431nt). The act authorized establishment of the MAC with representative members from State and local jurisdictions, the Agua Caliente Band of Cahuilla Indians, a natural science expert, local conservation organization, local developer or building organization, the Winter Park Authority and a representative from the Pinyon Community Council.

The meeting will be open to the public with attendance limited to space available. Individuals who plan to attend and need special assistance such as sign language interpretations or other

reasonable accommodations should notify the contact person listed below in advance of the meeting. Persons wishing to make statements should register with the BLM by noon at the meeting location. Speakers should address specific issues listed on the agenda and provide a written copy of their statement.

DATES: January 28, 2002; 8:30 a.m. to 4 p.m with public comment period beginning at 3 p.m.

ADDRESSES: The meeting will be held in the Hoover Room of the Education Center at the Living Desert, 47900 Portola Avenue, Palm Desert, California 92260.

FOR FURTHER INFORMATION CONTACT: Written comments should be sent to Mr. James G. Kenna—Field Manager, Palm Springs-South Coast Field Office, Bureau of Land Management, P.O. Box 581260, North Palm Springs, CA 92258; or by fax at (760) 251–4899 or by email at *cdunning@ca.blm.gov*. Information can be found on our webpage: *http://www.ca.blm.gov/palmsprings/*. Documents pertinent to this notice, including comments with the names and addresses of respondents, will be available for public review at the Palm Springs-South Coast Field Office located at 690 W. Garnet Avenue, North Palm Springs, California, during regular business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Santa Rosa and San Jacinto Mountains National Monument was established by act of Congress and signed into law on October 24, 2000. The National Monument was established in order to preserve the nationally significant biological, cultural, recreational, geological, educational and scientific values found in the Santa Rosa and San Jacinto Mountains. This legislation established the first monument to be jointly managed by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). The Santa Rosa and San Jacinto Mountains National Monument Act of 2000 affects only Federal lands and Federal interests located within the established boundaries.

The 272,000 acre Monument encompasses 86,400 acres of Bureau of Land Management lands, 64,400 acres of Forest Service lands, 23,000 acres of Agua Caliente Band of Cahuilla Indians lands, 8,500 acres of California Department of Parks and Recreation lands, 35,800 acres of other State of California agencies lands, and 53,900 acres of private land. The BLM and the Forest Service will jointly manage Federal lands in the National Monument in coordination with the Agua Caliente Band of Cahuilla Indians, other federal agencies, state agencies and local governments.

All committee and subcommittee meetings, including field examinations, will be open to the general public, including representatives of the news media. Any organization, association, or individual may file a statement with or appear before the committee and its subcommittees regarding topics on a meeting agenda—except that the chairperson or the designated federal official may require that presentations be reduced to writing and that copies be filed with the committee. Pursuant to the Federal Advisory Committee Act, meetings of the committee may be called only by the designated federal official, or his or her designee, after consultation with the committee chairperson. The Designated Federal Official required by the Federal Advisory Committee Act will be the Field Manager or District Ranger, or their designees, who will attend all meetings of the committee and any subcommittee thereof. Early and ongoing participation is encouraged and will help determine the future management of Federally managed public lands within the Santa Rosa and San Jacinto Mountains National Monument. Written comments will be accepted and considered throughout the entire planning process.

Dated: November 14, 2001.

Danella George,

Assistant Field Manager, Palm Springs-South Coast Field Office.

Douglas Pumphery,

District Ranger, Idyllwild Ranger District.

[FR Doc. 02–589 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 010084]

Public Land Order No. 7504; Partial Revocation of Public Land Order No. 1775; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order insofar as it affects 200 acres of National Forest System lands withdrawn for Panguitch Lake Administrative Site and Panguitch Lake Recreation Area. The withdrawal is no longer needed on the 200 acres. The lands will be opened to mining and to such forms of disposition as may by law be made of National Forest System lands.

EFFECTIVE DATE: February 11, 2002.

FOR FURTHER INFORMATION CONTACT: Lori Blickfeldt, Forest Service, Intermountain Region, 324–25th Street, Ogden, Utah 84401–2310, 801–625–5163.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 1775 is hereby revoked insofar as it affects the following described lands:

Dixie National Forest

Salt Lake Meridian

T. 36 S., R. 7 W.,
Sec. 4, NW¼SW¼;
Sec. 5, SW¼SE¼SE¼SW¼,
N½SE¼SE¼SW¼, NE¼SE¼SW¼,
N½NW¼SW¼SE¼,
NW¼NE¼SW¼SE¼, and NE¼SE¼;
Sec. 8, S½S½NW¼NE¼,
S½SE¼NE¼NW¼, W½NE¼NW¼,
E½NW¼NW¼, and SW¼NW¼.

The areas described aggregate 200 acres in Garfield County.

2. At 10 a.m. on February 11, 2002, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 15, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–591 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–030–1430; UTU 52740 and AZA 18464]

Public Land Order No. 7503; Revocation of Public Land Order Nos. 3469 and 4277, and the Bureau of Reclamation Order Dated March 14, 1957; Utah and Arizona

AGENCY: Bureau of land management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Public Land Orders, and one Bureau of Reclamation Order in their entirety as to the remaining 23,296 acres of lands withdrawn for the Bureau of Reclamation's Marble Canyon and Paria River Reservoir Projects. The projects have not been developed and the Bureau of Reclamation has requested the withdrawals be revoked. The lands are located within either the Paria Canyon-Vermilion Cliffs Wilderness or the Grand Staircase-Escalante National Monument and will be managed in accordance to the laws and regulations pertaining to the Wilderness and the Monument.

EFFECTIVE DATE: February 11, 2002.

FOR FURTHER INFORMATION CONTACT: Rhonda Flynn, BLM Utah State Office (UT–942), 324 South State Street, Salt Lake City, Utah 84111–2303, 801–539–4132. A copy of the orders being revoked is available from this location.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 3469, Public Land Order No. 4277, and Bureau of Reclamation Order dated March 14, 1957, are hereby revoked in their entirety as to the remaining lands withdrawn for the Marble Canyon and Paria River Reservoir Projects. The areas within the three orders aggregate approximately 23,296 acres in Kane and Coconino Counties.

2. The lands will be managed in accordance with the laws and regulations pertaining to the Paria Canyon-Vermilion Cliffs Wilderness and the Grand Staircase-Escalante National Monument.

Dated: October 2, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–592 Filed 1–9–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Application (SGA) H–1B Technical Skills Training Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; correction.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on December 14, 2001, concerning availability of grant funds for skills training programs for unemployed and employed workers. These grants are to be financed by user fees paid by employers to bring foreign workers into the U.S. under a new H–1B nonimmigrant visa or at visa renewal. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Ella Freeman, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879.

Correction

The **Federal Register** of December 14, 2001, in FR Doc. 01–30922, on page 64859, at the bottom of the second column and top of the third column, correct the **DATES** caption to read:

DATES: Applications for grant awards will be accepted commencing immediately. The closing date for receipt of applications shall be February 19, 2002 at 4 p.m. (Eastern Time) at the address listed.

Signed at Washington, DC, this 7th day of January, 2002.

James W. Stockton,

Grant Officer.

[FR Doc. 02–621 Filed 1–9–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Aracoma Coal Company

[Docket No. M–2001–106–C]

Aracoma Coal Company, P.O. Box 470, Stollings, West Virginia 25646 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Aracoma Alma Mine No. 1 (I.D. No. 46–08801) located in Logan County, West Virginia. The petitioner proposes to use a properly rated vacuum contactor for undervoltage circuit protection; to use a properly rated vacuum contactor for grounded phase circuit protection; to use a neutral grounding resister not more than 15 amperes for 480-volt circuit ground-fault current; to use a properly rated circuit breaker for a short circuit and/or over-current circuit protection; and conduct monthly examinations on each circuit to check for proper operation of the vacuum contactor and actuated undervoltage and grounded phase trip devices to ensure proper circuit operation. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Ohio Coal Company

[Docket No. M–2001–107–C]

Ohio County Coal Company, 19050 Highway 1078 South, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Freedom Mine (I.D. No. 15–17587) located in Henderson County, Kentucky. The petitioner proposes to mine through oil and gas well bores located within an approved mining area using the specific procedures outlined in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Addington, Inc.

[Docket No. M–2001–108–C]

Addington, Inc., 8616 Long Branch Road, Hatfield, Kentucky 41514 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Pond Creek Mine No. 1 (I.D. No. 15–17287) located in Pike County, Kentucky. The petitioner proposes to use a spring-loaded locking device instead of a padlock on mobile battery-powered equipment to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''*comments@msha.gov*,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 11, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 31st day of December 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–619 Filed 1–9–02; 8:45 am]

BILLING CODE 4510–43–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25355, 812–12102]

The Charles Schwab Family of Funds, et. al; Notice of Application

January 4, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility. The requested order also would amend a condition of a prior order (''Order'').[1]

APPLICANTS: The Charles Schwab Family of Funds, Schwab Investments, Schwab Capital Trust, Schwab Annuity Portfolios (each a ''Trust'' and together the ''Trusts'') for and on behalf of each of their series now or hereafter existing (the ''Schwab Funds''), Charles Schwab Investment Management, Inc. (''CSIM''), and any other existing or future registered open-end management investment company or series thereof that is advised or sub-advised by CSIM or a person controlling, controlled by, or under common control with CSIM and that is part of the ''same group of investment companies'' as the Schwab Funds (together with the Schwab Funds, the ''Funds'').

FILING DATES: The application was filed on May 17, 2000 and amended on January 3, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 29, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Applicants, 101 Montgomery Street, 101KNY–14, San Francisco, California 94104.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each of the Trusts is registered under the Act as an open-end management investment company and organized as a Massachusetts business trust.[2] CSIM is registered under the Investment Advisers Act of 1940 and serves as investment adviser for each of the Funds.

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term investments. Under a prior order, the Funds can pool their uninvested daily cash balances into joint accounts (''Joint Accounts'') that invest in repurchase agreements and other money market instruments.[3] Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests or to cover unanticipated cash shortfalls such as a trade ''fail,'' in which cash payment for a security a Fund has sold has been delayed.

3. If a Fund were to draw down on its line of credit or incur an overdraft with its custodian bank, the Fund would pay interest on the borrowed cash at a rate which would be significantly higher than the rate that other non-borrowing Funds would earn on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit. Other bank loan arrangements, such as committed lines of credit, would require the Funds to pay substantial commitment fees in addition to the interest rate to be paid by the borrowing Fund.

4. Applicants request an order that would permit the Funds to enter into interfund lending agreements (''Interfund Lending Agreements'') under which the Funds would lend and borrow money for temporary purposes directly to and from each other through a credit facility (''Interfund Loan''). Applicants state that the proposed credit facility would reduce the Funds' borrowing costs and enhance their ability to earn higher rates of interest on investment of their short-term cash balances. Although the proposed credit facility would reduce the Funds' need to borrow from banks, the Funds would be free to establish committed lines of credit or other borrowing arrangements with banks. The Funds also would continue to maintain any overdraft protection currently provided by the custodian bank and their uncommitted lines of credit with various banks.

5. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed expected volumes and the Fund has insufficient

[1] *The Charles Schwab Family of Funds, et al.,* Investment Company Act Release Nos. 24067 (October 1, 1999) (notice) and 24113 (October 27, 1999) (order).

[2] Each existing Fund that currently intends to rely on the requested order is named as an applicant. Any Fund that relies on the requested relief in the future will do so only in compliance with the terms and conditions of the application.

[3] The Charles Schwab Family of Funds, et al., Investment Company Act Release No. 23679 (February 4, 1999) (notice) and 23723 (March 3, 1999) (order).

cash to satisfy redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the credit facility when a sale of securities ''fails'' due to circumstances such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may present a cash shortfall if the Fund has purchased securities using the proceeds from the securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions and sales fails, under the proposed credit facility a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements. Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

8. The interest rate charged to the Funds on any Interfund Loan (''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate for any day would be the highest rate available to the Funds from investing in overnight repurchase agreements, either directly or through a Joint Account (''Repo Rate''). The Bank Loan Rate for any day would be calculated by CSIM each day an interfund loan is made according to a formula established by the Board of Trustees of each Trust (''Board'') designed to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (e.g., Federal Funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. Each Fund's Board periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Board.

9. The credit facility would be administered by employees of CSIM, including representatives of the Fund Administration and Financial Analysis Department and/or representatives of the Portfolio Management and Research Department, who are not portfolio managers (''Interfund Lending Team''). Under the proposed credit facility, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. The Interfund Lending Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Applicants expect far more available uninvested cash each day than borrowing demand. Once it determines the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Team would allocate loans among borrowing Funds without any further communication from portfolio managers. After allocating cash for Interfund Loans, CSIM would invest any remaining cash in accordance with the standing instructions of portfolio managers or return remaining amounts for investment to the Funds. Any money market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions.

10. The Interfund Lending Team would allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of Funds necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Board, including a majority of trustees who are not ''interested persons'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure both borrowing and lending Funds participate on an equitable basis.

11. CSIM would (i) monitor the interest rates charged and other terms and conditions of the Interfund Loans, (ii) ensure compliance with each Fund's investment policies and limitations, (iii) ensure equitable treatment of each Fund, and (iv) make quarterly reports to the Board concerning any transactions by the Funds under the credit facility and the Interfund Loan Rates.

12. CSIM would administer the credit facility as part of its duties under its existing advisory contract with each Fund and would receive no additional fee as compensation for its services. CSIM may, however, collect reimbursement for standard pricing, recordkeeping, bookkeeping and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the credit facility. Fees would be no higher than those applicable for comparable bank loan transactions.

13. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents. The statement of additional information of each Fund discloses the individual borrowing and lending limitations of the Fund. Each Fund will notify shareholders of its intended participation in the proposed credit facility prior to relying on any relief granted pursuant to the application. The statement of additional information of each Fund participating in the interfund lending arrangements will disclose all material information about the credit facility.

14. In connection with the credit facility, applicants request an order under section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act; and under section 17(d) and rule 17d–1 under the Act to permit certain joint arrangements.

15. Applicants state that certain Funds and other registered open-end investment companies operate in reliance on the Order. Applicants state that one of the conditions of the Order is that Underlying Funds, as defined in the Order, cannot acquire securities of any other investment company in excess

of the limits contained in section 12(d)(1) of the Act. Applicants request that if the requested relief is granted, this condition be amended to permit the Underlying Funds to engage in interfund borrowing and lending transactions.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having CSIM as their common investment advisor.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because: (a) CSIM would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that the Funds otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through a Joint Account; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Funds would receive interest at a rate higher than they could obtain through such other investments; and (e) the borrowing Funds would pay interest at a rate lower than otherwise available to them under their bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the credit facility does not involve these abuses. Applicants note that there will be no duplicative costs or fees to any Fund or its shareholders, and that CSIM will receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank; provided, that immediately after any such borrowing, there is an asset coverage of at least 300 per cent for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transactions in which the company participates unless the transaction is approved by the Commission. Rule 17d–1 provides that in passing upon applications for relief under section 17(d), the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to the insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms that are no different from or less advantageous than that of other participating Funds.

10. Applicants also request relief under section 12(d)(1)(J) of the Act for

an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act to the extent necessary to amend the Order. Applicants submit that the Order should be modified solely to the extent necessary to allow an Underlying Fund to engage in interfund borrowing and lending transactions. Applicants believe that the proposed relief satisfies the standards of sections 12(d)(1)(J), 6(c) and 17(b). Applicants state that there will be no duplicative costs or fees to any of the Funds or their shareholders, and that such participation will not create any of the abuses to which section 12(d)(1)(A) is addressed.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The interest rates to be charged to the Funds under the credit facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, CSIM will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) more favorable to the lending Fund than the Repo Rate, and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to collateral, if any) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowing from all sources immediately after the interfund borrowing total less than 10% its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be 10% or greater of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source if its total borrowings immediately after the interfund borrowing would exceed the limits in section 18 of the Act.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to equal or exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans equals or exceeds 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to less than 10% of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to equal or exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings equal or exceed 10% is repaid, or the Fund's total outstanding borrowings cease to equal or exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge additional collateral as necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of the lending Fund's current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. Except as set forth in this condition, no Fund may borrow through the credit facility unless the Fund has a policy that prevents the Fund from borrowing for other than temporary or emergency purposes. In the case of a Fund that does not have such a policy, the Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Interfund Lending Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Interfund Lending Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. CSIM will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the Funds.

13. CSIM will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will report to the Boards quarterly concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit thereunder.

14. Each Trust's Board, including a majority of the Independent Trustees: (a) will review no less frequently than quarterly each Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, approve any modifications thereto, and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will

review no less frequently than annually the continuing appropriateness of each Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand of payment under the provisions of the Interfund Lending Agreement, CSIM will promptly refer the loan for arbitration to an independent arbitrator selected by the Boards of the Funds involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[4] The arbitrator will resolve any problems promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit at least annually a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and other information presented to the Boards in connection with the review required by conditions 13 and 14.

17. CSIM will prepare and submit to the Boards for review, an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, CSIM will report on the operations of the credit facility at each Board's quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates CSIM's assertions that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the Application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Boards; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its statement of additional information all material facts about its intended participation.

Applicants also agree that condition number 12 to the Order will be modified to read as follows:

No Underlying Fund will acquire securities of any other investment company in excess of the limits set forth in Section 12(d)(1)(A) of the 1940 Act, except to the extent that the Underlying Fund has obtained exemptive relief from the Commission permitting it to (a) purchase shares of an affiliated money market fund for short-term cash management purposes; or (b) engage in interfund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[4] If the dispute involves Funds with separate Boards, the Trustees of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45235; File No. SR–Amex–2001–100]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to the Initial and Annual Listing Fees, Fees for Listing Additional Shares and the One-Time Charge for Listing Shares Issued in Connection With Acquisition of a Listed Company by an Unlisted Company

January 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on December 26, 2001.[3] The Exchange filed Amendment No. 2 to the proposed rule change on December 26, 2001.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 140, 141, 142, 144 and 341 of the Amex *Company Guide* relating to the Exchange issuer initial listing fee,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael J. Ryan, Executive Vice President and General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 13, 2001 (''Amendment No. 1''). In Amendment No. 1, the Amex requested that Commission grant accelerated approval to the proposed rule change.

[4] *See* letter from Michael J. Ryan, Executive Vice President and General Counsel, Amex, to Marc McKayle, Special Counsel, Division, Commission, dated December 20, 2001 (''Amendment No. 2''). In Amendment No. 2, the Amex stated that it seeks to implement the revised Annual Fee schedule under Section 141 as of January 1, 2002 and the revisions to Sections 140, 142, 144 and 341 upon Commission approval. In addition, the Amex made a minor correction to the proposed rule change, clarified that it will not reimburse part of the annual fee paid under Section 141 to issuers whose securities are removed from listing and registration for the portion of the year remaining after the date of removal, and added additional reasons for amending the Refund of Listing Fees under Section 144.

annual fee, the fee for listing additional shares.

The text of the proposed rule change appears below. New text is in *italics;* deleted text is in [brackets].

Sec. 140. Original Listing Fees

STOCK ISSUES

Less than 5,000,000 shares	*$30,000*
5,000, 000 to 10,000,000 shares	*40,000*
10,000,001 to 15,000,000 shares	*50,000*
In excess of 15,000,000 shares	*60,000*

ISSUES LISTED UNDER § 106 (CURRENCY AND INDEX WARRANTS) AND § 107 (OTHER SECURITIES)

Less than 1,000,000 shares	$5,000
1,000,000 to 2,000,000 shares	10,000
2,000,001 to 3,000,000 shares	15,000
3,000,001 to 4,000,000 shares	17,500
4,000,001 to 5,000,000 shares	20,000
5,000,001 to 6,000,000 shares	22,500
6,000,001 to 7,000,000 shares	25,000
7,000,001 to 8,000,000 shares	27,500
8,000,001 to 9,000,000 shares	30,000
9,000,001 to 10,000,000 shares	32,500
10,000,001 to 15,000,000 shares	37,500
In excess of 15,000,000 shares	45,000

In addition to the above per-share fee, there is one-time *application processing fee* [charge] of $5,000 for companies that do not have a stock or warrant issue listed on the Exchange. (The one-time [charge] *application processing fee* of $5,000 does not apply to any company which previously paid the one-time [charge] *fee* in connection with the listing of a debt issue.)

In the case of non-U.S. companies listed on foreign stock exchanges, the fee, including the one-time charge, will be 50% of the rates set forth above, with a maximum fee of $[25,000] *32,500.* Where the original listing of more than one class of stock is included in the same application, the fee is based on the aggregate number of shares of all such classes.

Warrants—The original (as well as the annual and additional) listing fees for warrant issues are the same as those for stock issues.

Bonds—$100 per $1 million principal amount (or fraction thereof) with a minimum fee of $5,000 and a maximum fee of $10,000. In the case of an issuer listing more than one outstanding publicly traded debt security, the fee will be based on the aggregate principal amount of all of such issues provided they are included within a single application.

In addition, there is one-time *application processing fee* [charge] of $5,000 for companies that do not have an issue of securities listed on the Exchange.

Index Fund Shares and Trust Issued Receipts—The original listing fee for Index Fund Shares listed under Rule 1000A and Trust Issued Receipts listed under Rule 1200 is $5,000 for each series, with no application processing fee.

Special Shareholders Rights Plans—Upon the shareholder rights becoming exercisable and tradable separately.

- An original fee will be charged based on the number of shareholder rights then outstanding and on additional issuance of rights;
- Shareholder rights will be subject to the Exchange's continuing annual fee schedule.

Sec. 141. Annual Fees

STOCK ISSUES AND ISSUES LISTED UNDER § 106 AND § 197 AND RULE 1200 (TRUST ISSUED RECEIPTS)

Shares outstanding	Fee
5,000,000 shares or less (minimum)	*$15,000*
5,000,001 to 10,000,000 shares	*17,500*
10,000,001 to 25,000,000 shares	*20,000*
25,000,001 to 50,000,000 shares	*22,500*
In excess of 50,000,000 shares (maximum)	*30,000*

ISSUED LISTED UNDER RULE 1000A (INDEX FUND SHARES)

Shares outstanding	Fee
1,000,000 shares or less shares (minimum)	$6,500
1,000,001 to 2,000,000 shares	7,000
2,000,001 to 3,000,000 shares	7,500
3,000,001 to 4,000,000 shares	8,000
4,000,001 to 5,000,000 shares	8,500
5,000,001 to 6,000,000 shares	9,000
6,000,001 to 7,000,000 shares	9,500
7,000,001 to 8,000,000 shares	10,000
8,000,001 to 9,000,000 shares	10,500
9,000,001 to 10,000,000 shares	11,000
10,000,001 to 11,000,000 shares	11,500
11,000,001 to 12,000,000 shares	12,000
12,000,001 to 13,000,000 shares	12,500
13,000,001 to 14,000,000[5] shares	13,000
14,000,001 to 15,000,000 shares	13,500
15,000,001 to 16,000,000 shares	14,000
In excess of 16,000,000 shares (maximum)	14,500

[5] The Commission notes that in the Exchange's initial proposal, it stated ''13,000,001 to 14,000,001.'' In fact, the Exchange intended to state ''13,000,000 to 14,000,000'' shares. The Commission has made this technical change in anticipation of the Exchange filing an amendment with the Commission that makes this correction. Telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and Christopher Solgan, Law Clerk, Division, Commission, on January 3, 2002.

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable within 30 days of the date the company receives the invoice, based on the total number of outstanding shares of all classes of stock at the time of original listing.

The annual fee for issues listed under Rule 1000A (Index Fund Shares) and Rule 1200 (Trust Issued Receipts) is based upon the number of shares of a series of Index Fund Shares or Trust Issued Receipts outstanding at the end of each calendar year. For multiple series of Index Fund Shares issued by an open-end management investment company, or for multiple series of Trust Issued Receipts, the annual listing fee is based on the aggregate number of shares in all series outstanding at the end of each calendar year.

Bond Issues—There is an annual fee of $3,500 for listed bonds and debentures of companies whose equity securities are not listed on the Exchange. The annual fee is payable in January of each year. In the year in which a company lists, the fee will be prorated to reflect only that portion of the year during which the security was admitted to dealings and will be payable in December.

Note: In all cases, if after payment on full of the annual fee for any year, all of the issuer's securities are removed from listing and registration, the Exchange will *not* reimburse that part of the annual fee applicable to the portion of the year remaining after the date of suspension from dealings.

Sec. 142. Additional Listing Fees

(a) Previously Listed Equity Issues—Listing of additional shares subsequent to original listing—2¢ per share subject to a minimum fee of $2,000 (100,000 shares or less) and a maximum fee of [$17,500 (875,000 shares or more)] *$22,500 (1,125,000 shares or more)* per application.

The annual maximum fee per company for listing additional shares shall be $45,000. (The above fees for listing of additional shares also apply to companies whose securities are admitted to unlisted trading privileges.)

(b) Previously Listed Debt Issues—Listing of additional bonds subsequent to original listing—$150 per $1 million principal amount (or fraction thereof) with a minimum fee of $1,000 and a maximum fee of $12,000.

(c) Different Class—The schedule for original listing (§ 140) is applicable to the listing of securities of an issue, class or series not previously listed.

(d) Substitution Listing—In cases where, after original listing, a change is effected by charter amendment or otherwise, under which shares listed upon the Exchange are reclassified or changed into or exchanged for another security, either with or without a change in par value, the fee for the listing of such number of ''new'' substituted shares (to the extent not in excess of the amount previously listed) is [$2,500] *$5,000.* The full additional listing fee is charged (see paragraph (a) above) for all shares included in the application in excess of the amount previously listed. The maximum fee for the aggregate of all such ''new'' substituted shares and excess shares is [$20,000] *$27,500.* In the case of an application for the substitution listing of bonds or warrants upon their assumption by a new obligor or issuer, the listing fee will be $500.

(e) Reincorporation, Merger or Consolidation—If a listed company reincorporates, or merges with or consolidates into one or more corporations, the substitution listing fee (paragraph (d) above) may be applicable. (See also § 341 for the appropriate fee to be paid in connection with the acquisition of a listed company by an unlisted company.)

Sec. 144. Refunds of Listing Fees

(a) Applications Withdrawn or Not Approved—If a listing application is not approved by the Exchange or is withdrawn by the applicant, a service charge of [$1,000] *$1,500* is deducted by the Exchange from the [listing] *application processing* fee previously paid by the applicant, and the balance is refunded to it.

(b) Credits After Approval—No cash refund of a listing fee is made where an application has been finally approved by the Exchange. If additional unissued shares are authorized for addition to the list ''upon official notice of issuance'' and all of such shares are not issued for the purpose specified in the application, a credit is allowed. The credit may be applied in full or partial payment of fees payable for future listing applications of the same company. The amount of the credit is the difference between the fee paid for the listing of such authorized shares and the fee which would have applied had the application been initially submitted for the number of shares, which were actually issued and added to the list under the same listing authorization. If a company cancels all listing authorization pursuant to any single application (see section 350), without the issuance of any such shares, the Exchange makes a minimum charge of [$1,000] *$1,500.*

Sec. 341. Acquisition of a Listed Company by an Unlisted Company

The policy set forth below relates to any plan of acquisition, merger or consolidation, the net effect of which is that a listed company is acquired by an unlisted company even though the listed company is the nominal survivor. In applying this policy, consideration will be given to all relevant factors, including the proportionate amount of the securities of the resulting company to be issued to each of the combining companies, changes in ownership or management of the listed company, whether the unlisted company is larger than the listed company, and the nature of the businesses being combined. In evaluating the listing eligibility of the surviving company, the Exchange will apply its original listing guidelines. See section 713(b).

The Exchange recommends that any proposed plan of the above nature, including particularly any plan under which shareholders of the listed company would own less than 50% of the shares or voting power of the resulting company, be submitted for an informal opinion before its promulgation.

In addition to the applicable per share fee for additional listings, there is a one-time charge of [$7,500] *$10,000* for such listings.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

The Exchange proposes to amend Sections 140, 141, 142, 144 and 341 of the Amex *Company Guide* to modify initial and annual listing fees, fees for listing additional shares and the one-time charge for listing shares issued in connection with acquisition of a listed company by an unlisted company, as discussed below. The Exchange believes these fees changes are necessary to adequately fund the Exchange listed equities business and development of value-added services for Amex listed issuers.

a. Original Listing Fees (Section 140)

Currently, original listing fees range from $5,000 to $45,000 depending on the number of shares to be listed. The Exchange proposes to increase the original listing fees for stock issues, excluding securities listed under Sections 106 (Currency and Index Warrants) and 107 (Other Securities) of the *Company Guide,* and to reduce the number of tiers from twelve to four tiers as follows:

Less than 5,000,000 shares	$30,000
5,000,000 to 10,000,000 shares	40,000
10,000,001 to 15,000,000 shares ...	50,000
In excess of 15,000,000 shares	60,000

The Exchange states that in order to continue to foster listing of structured equity derivative securities (*e.g.,* MITTs, SUNs, Equity Linked Notes), the listing fee for issues listed under Section 106 (Currency and Index Warrants) and section 107 (Other Securities) will remain unchanged from the current original listing fee schedule.

Currently, according to the Exchange, issuers also pay a one time-charge of $5,000 if they do not already have a stock or warrant issue listed on the Exchange. The one time $5,000 fee would be designated as an application processing fee, reflecting its true nature and purpose. For non-U.S. companies, the original listing fee would continue to be 50% of the above rates, with a maximum of $32,500 (including a $2,500 processing fee).

The original listing fee for Index Fund Shares (*e.g.,* iShares, VIPERs) listed under Rule 1000A and Trust Issued Receipts (*e.g.,* HOLDRs) listed under Rule 1200 is $5000 for each series, with no application processing fee.

b. Annual Fees (Section 141)

According to the Exchange, annual fees under Section 141 currently range from $6,500 to $14,500. The Exchange

proposes to increase annual fees for stock issues and for issues listed under sections 106 and 107 as described below, with the number of tiers reduced from 17 to 5:

5,000,000 shares or less (minimum)	$15,000
5,000,001 to 10,000,000 shares	17,500
10,000,001 to 25,000,000 shares	20,000
25,000,001 to 50,000,000 shares	22,500
In excess of 50,000,000 shares maximum	30,000

The Exchange states that Index Fund Shares would continue to be subject to current annual fee schedule. In addition, the Exchange proposes to codify an existing procedure in section 141 to provide that the annual fee for Index Fund Shares and Trust Issued Receipts is based on the number of shares of a series outstanding at year-end, with multiple series aggregated for purposes of the fee calculation.[6]

If an issuer's securities are removed from Exchange listing, the Exchange currently reimburses the issuer for part of any previously paid annual fee applicable to the portion of the year remaining after the date of suspension from dealings. The Exchange proposes that it would no longer make such reimbursement.

c. Additional Listing Fees (Section 142)

According to the Exchange, the fee for listing additional shares is 2 cents per share subject to a minimum of $2,000 (for 100,000 shares or less) and a maximum of $17,500 (for 875,000 shares or more) per application. The minimum fee would continue to be $2,000 for issues of up to 100,000 shares. For issues over 100,000 shares, the Exchange proposes to increase the maximum fee per company to $22,500 for issues of 1,125,000 shares or more. In addition, the Exchange proposes a maximum fee per company in any one year for listing additional shares of $45,000.

The Exchange states that section 142(a) would also be amended to make clear that Section 142 fees apply to Amex securities admitted to unlisted trading privileges (*i.e.* the relatively few Amex-traded issues grandfathered under section 12 of the Act[7] and not required to execute a listing agreement with the Exchange), comparable to the provision in section 141 for annual fees.

The Exchange proposes to amend section 142(d) (''Substitution Listing'') by raising the fee for listing of new substituted shares from $2,500 to $5,000, and raising the maximum fee for substituted shares and excess shares from $20,000 to $27,500 per quarter, (corresponding to the sum of the proposed $5,000 increase in maximum fees for listing additional shares under section 142(a) and the $2,500 fee increase for listing new substituted shares).

d. Refund of Listing Fees (Section 144)

Currently, under section 144, if an applicant withdraws its application or the application is not approved, the Exchange deducts a $1,000 service charge and refunds $4,000 from the application processing fee to the applicant. The Exchange proposes to increase this service charge to $1,500. In addition the Exchange proposes to increase the minimum charge if an issuer cancels a listing authorization without issuing such authorized shares from $1,000 to $1,500. As with the other proposed fee changes in this filing, the Exchange states that it is increasing these charges to better reflect increased Exchange costs associated with reviewing and processing such applications.

e. Acquisition of a Listed Company by an Unlisted Company (Section 341)

The Exchange proposes to amend section 341 to increase the one-time charge imposed in connection with acquisition of a listed company by an unlisted company from $7,500 to $10,000.

(2) Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[8] in general and furthers the objectives of section 6(b)(4) of the Act,[9] in particular, because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–100 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–632 Filed 1–9–02; 8:45 am]

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[6] Portfolio Depository Receipts (*i.e.,* SPDRs, MidCap SPDRs, DIAMONDS, Nasdaq 100 Index Tracking Stock) are not subject to annual or additional listing fees.

[7] 15 U.S.C. 78*l*.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45234; File No. SR–AMEX–2001–109]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Pilot Program Eliminating Position and Exercise Limits for Certain Broad Based Index Options

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act),'' [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2001, the American Stock Exchange LLC (''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act [3] which renders the proposal effective upon receipt of this filing by the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks a six-month extension of the pilot program that provides for the elimination of position and exercise limits for the Major Market (''XMI'') and Institutional (''XII'') broad-based index options, as well as FLEX Options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 1, 1999, The Commission approved the elimination of position and exercise limits for the XMI and XII index options, as well as FLEX options on these indexes on a two-year basis (the ''Pilot Program'').[5] The Pilot Program originally ended on February 1, 2001 with an extension for six months approved on July 3, 2001.[6] The purpose of this proposed rule change is to request a six-month extension of the Pilot Program.[7]

The Original Approval Order required the Exchange to submit a report to the Commission regarding the status of the Pilot Program so that the Commission could use this information to evaluate any effects of the program.[8] The Exchange submitted the required report to the Commission on May 22, 2001 in connection with the first six-month extension of the Pilot Program. The report indicated that from February 1, 1999 through March 30, 2001, no customer and/or firm accounts reached a level of 100,000 or more options contracts in XMI or XII options. The Amex during the review period and the extended pilot program did not discover any instances where an account maintained an unusually large unhedged position. Accordingly, because the Exchange has not experienced any aberrations due to the large unhedged positions during the operation of the Pilot Program, it requests that the effectiveness of the Pilot Program be extended for an additional six months until July 3, 2002.

2. Basis

The proposed rule change is consistent with section 6(b) of the Act [9] in general and furthers the objects of section 6(b)(5) [10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become immediately effective pursuant to section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder [12] because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not, by its terms, become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.

The Exchange has requested that the Commission accelerate the operative date of the proposal. In addition, the Exchange provided the Commission with notice of its intent to file the proposed rule change, along with a brief description and text of the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] 17 CFR 240.19b–4(f)(6).

[4] The Exchange has represented that the proposed rule change: (i) Will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4 under the Act. *id*.

[5] *See* Securities Exchange Act Release No. 41011, 64 FR 6405 (February 9, 1999) (''Original Approval Order'').

[6] *See* Securities Exchange Act Release No. 44507, 66 FR 36348 (July 11, 2001).

[7] By separate filing, the Exchange intends to seek permanent approval by the Commission of the Pilot Program.

[8] The Commission requests that the Amex update the Commission on any problems that have developed with the pilot since the last extension, including any compliance issues, and whether there have been any large unhedged positions that have raised concerns for the Amex. In addition, the Commission expects that the Amex will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop. *See also* Original Approval Order.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

rule change, more than five business days prior to the date of the filing of the proposed rule change.

The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become operative on January 4, 2002.[13] Acceleration of the operative date will allow the Exchange to continue its Pilot Program without interruption. Further the Commission has approved a similar pilot program proposed by another options exchange.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all, written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–2001–109 and should be submitted by January 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

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[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] *See* Securities Exchanges Act Release No. 44335 (May 22, 2001), 66 FR 29369 (May 30, 2001) (SR–CBOE–2001–26).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45236; File No. SR–Amex–2001–42]

Self-Regulatory Organizations; Notice of Proposed Rule Change by American Stock Exchange LLC To Increase Position and Exercise Limits for Nasdaq-100 Index Tracking Stock Options

January 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2001, the American Stock Exchange LLC (the ''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 26, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3]

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposed to increase position and exercise limits for Nasdaq-100 Index Tracking Stock (''QQQ'') options to 300,000 contracts on the same side of the market. In order to codify the financial requirements imposed by the Exchange and the Commission, the Amex also proposes to add Commentary .11 to Exchange Rule 904.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 supersedes and replaces the original 19b–4 filing in its entirety.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to increase position and exercise limits for QQQ options up to 300,000 contracts on the same side of the market. The Exchange will continue to require that member organizations report all QQQ options positions exceeding 200 contracts pursuant to Exchange Rule 906. Moreover, for accounts holding positions in excess of 10,000 contracts on the same side of the market, the Exchange will also continue to require information concerning the extent to which such positions are hedged. The Amex believes that increasing position and exercise limits from 75,000 to 300,000 contracts for QQQ options will provide greater flexibility for market participants attempting to hedge their market risks.[4] In addition, Exchange staff will be able to re-focus efforts and resources to other notable areas.

Manipulation

Position limits restrict the number of options contracts that an investor, or a group of investors acting in concert, may own or control. Similarly, exercise limits prohibit the exercise of more than specified a number of contracts on a particular instrument within five (5) business days. The Commission by imposing these limits on exchange-traded options has sought to: (1) Minimize the potential for mini-manipulations,[5] as well as other forms of market manipulations; (2) impose a ceiling on the position that investor with inside corporate or market information can establish; and (3) reduce the possibility of disruption in the options and underlying cash markets.[6] The Amex believes that the structure of the QQQ option and the tremendous liquidity of both the underlying cash and option market for QQQs should allay regulatory concerns of potential manipulation. The Amex further believes that QQQ options are not readily susceptible to manipulation based largely on the liquidity and

[4] Although the current position limit is 75,000 contracts, due to a 50% reduction in the value of the underlying QQQ on March 20, 2000, the limit was adjusted to 150,000.

[5] Mini-manipulation is an attempt to influence, over a relatively small range, the price movement in a stock to benefit a previously established options position.

[6] *See* Becker and Burns, Regulation of Exchange-Traded Options in *The Handbook of Derivatives and Synthetics* (1994), Probus Publishing Company and Regulating the Options Market, *Institutional Investor Forum* (November 1991).

activity of the underlying QQQ as well as the securities comprising the QQQ. Therefore, the Exchange submits that increasing position and exercise limits to 300,000 contracts may generate greater order flow for the Amex and provide members with greater flexibility in fulfilling their obligations to customers and the market.

Although the QQQ options is not itself an index option product, it nonetheless is designed to closely track the price and yield performance of the Nasdq-100 index.[7] Therefore, we believe that in evaluating this proposal to increase position and exercise limits for QQQ options, the Commission should apply an analysis similar to what was used in connection with broad-based index options.[8]

The Amex believes in connection with QQQ options that the restrictive position and exercise limits no longer serve their stated purpose. The Commission has stated that:

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member of customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for concerns or squeezes of the underlying market. In addition such limits such to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[9]

The Exchange believes that both the size and breadth of the market for QQQs dispels concerns regarding market manipulation and disruption. The average daily trading volumes for the QQQs and QQQ options from January 1, 2001 to November 30, 2001 were 71.21 million shares and 148,181 contracts, respectively. the QQQ option is by far the most actively-traded option product in the U.S., and therefore, the most liquid. The underlying QQQ is the most actively-traded equity security in the U.S. with greater trading volume than both Microsoft and Intel.[10] Accordingly, the Exchange believes that the tremendous liquidity of the QQQ option and the underlying cash market for QQQs severly minimizes the potential for manipulations in both the options and underlying cash market.

To date, there has not been a single disciplinary action involving manipulation or potential manipulation in the QQQ or the QQQ option on the Exchange. We further believe that our extensive experience conducting surveillance of derivative products and program trading activity is sufficient to identify improper activity. Routine oversight inspections of Amex's regulatory programs by the Commission have not uncovered any inconsistencies or shortcomings in the manner in which derivative and options surveillance is conducted. These procedures entail a daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both the options and underlying cash markets.

Competition

The Commission has stated that ''limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.'' [11] Based on the large trading volume apparent in both the underlying QQQ and QQQ options, the Exchange believes that current position and exercise limits of the QQQ option are too restrictive and may adversely affect the Amex's ability to compete with the OTC market. The Exchange believes that investors who trade listed options on the QQQ at the Amex may be placed at a serious disadvantage in comparison to certain Nasdaq-100 index derivative products traded in the OTC market where some index-based derivatives are not currently subject to position and exercise limits.[12] Member firms also continue to express their concern that position limits on popular, actively-traded products, such as QQQ options, are an impediment to business development on the Exchange. Accordingly, a portion of this business is believed to have moved to the OTC market where some index-based derivative products are not subject to position limit requirements. In addition, current base limits for the QQQ option may not be adequate in many instances for the hedging needs of certain institutions which engage in trading strategies differing from those covered under the current index hedge exemption policy (*e.g.,* delta hedges; OTC vs. listed hedges).[13]

Financial Requirements

The Exchange believes that financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in QQQ options. Current margin, and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer. It should also be noted that the Exchange has the

[7] QQQ represents ownership in the Nasdaq-100 Trust, a long-term unit investment trust established to accumulate and hold a portfolio of the equity securities that comprise the Nasdaq-100 Index. The Nasdaq-100 Index includes 100 of the largest non-financial companies listed on the Nasdaq National Market. The Nasdaq-100 reflects Nasdaq's largest growth companies across major industry groups with all index components having a market capitalization of at least $500 million and an average daily trading volume of at 100,000 shares. QQQ is intended to provide investment results that generally correspond to the Nasdaq-100 Index with an initial market value approximated at 1/40th the value of the underlying Nasdaq-100 Index. A description and analysis of the Nasdaq-100 Index is set forth by the Commission in Securities Exchange Act Release No. 33428 (January 4, 1994), 59 FR 1576 (January 11, 2994) (order approving trading of Nasdaq-100 options by CBOE). As of November 30, 2001, the market capitalization of the securities underlying the Nasdaq-100 Index was approximately $1.875 trillion while the QQQ had net assets of $23.96 billion and 559.1 million shares outstanding. By far the largest economic sector represented is technology amounting to 68.91%. The top QQQ holding is Microsoft accounting for 11.97% while the top ten holdings constitute 43.22%.

[8] *See* Securities Exchange Act Release Nos. (February 1, 1999), 64 FR 6405 (February 9, 1999) (order approving the elimination of position and exercise limits for XMI and XII options on a two-year pilot basis) and 40969 (January 22, 1999), 64 FR 4911 (February 1, 1999) (order approving the elimination of position and exercise limits for SPX, OEX, DJX and related FLEX options on a two-year pilot basis).

[9] Securities Exchange Act Release No. 39489 (December 24, 1997), (63 FR 276 (January 5, 1998).

[10] For the period of January 1, 2001 to November 30, 2001, Microsoft and Intel had average daily trading volumes of 39.38 and 53.98 million shares, respectively, compared to the QQQ with an average daily trading volume of 71.21 million shares.

[11] *See* H.R. Rep. No. IFC–3, 96th Cong., 1st Sess. At 189–91 (Comm. Print 1978).

[12] The Commission notes, however, that as an equity product, options on the QQQ are subject to position limits in the OTC market. *See* NASD Rule 2860.

[13] The current limit for QQQ options is 150,000 contracts due to the 50% reduction in the underlying value of the QQQ that occurred on March 20, 2000. At this limit, the QQQ options equate to 15,000,000 QQQ shares or an aggregate value of $59.47 billion as of November 30, 2001. At the time of approval of QQQ options, position and exercise limits were set at 25,000 (250,000 QQQ shares) equating to an aggregate value of $2,500,000 as of March 9, 1999 (commencement of trading). When QQQs commenced trading, the volume was 10.4 million shares with an opening price of $100.00 per share. The average daily trading volumes for the QQQ during 1999, 2000 and year-to-date 2001 were 13.9 million, 30.9 million and 71.21 million shares respectively, while for the same periods the average daily trading contract volume for the QQQ option were 9,206, 91,656, and 148,181. As of November 30, 2001, the price of a single QQQ was $39.65.

authority under paragraph (d)(2)(k) of Rule 462 to impose a higher margin requirement upon the member or member organization when the Exchange determines a higher requirement is warranted. Proposed Commentary .11 to Exchange Rule 904 codifies these financial requirements imposed by the Exchange and the Commission.

Reporting Requirements

Consistent with Amex Rule 906(b), the Amex will continue to require that each member or member organization that maintains a position on the same side of the market in excess of 10,000 contracts in the QQQ option, for its own account or for the account of a customer report certain information. This data includes, but is not limited to, the option position, whether such position is hedged and if so, a description of the hedge and if applicable, the collateral used to carry the position. Exchange market-markers are exempt from this reporting requirement as market-maker information can be accessed through the Exchange's market surveillance systems. Once the 10,000 contract reporting threshold is attained, the Amex requires members and member organizations to similarly report each increase of 2,500 contracts on the same side of the market for customer accounts and each increase of 5,000 contracts on the same side of the market for proprietary accounts. The Exchange believes that the reporting level of 10,000 contracts on the same side of the market for members other than Exchange market-makers is consistent with the designation of the QQQ as an equity option, and therefore, the existing regulatory regime. Pursuant to Rule 906(a), the general reporting requirement for customer accounts that maintain a position in excess of 200 contracts will remain at this level for QQQ options. Lastly, the Amex believes that the 10,000 contract reporting requirement is above and beyond what is currently required in the OTC market. According to the Amex, NASD member firms are only required to report options positions in excess of 200 contracts and are not required to report any related hedging information.

2. Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [14] in general and furthers the objectives of section 6(b)(5) [15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer File No. SR–AMEX–2001–42 and should be submitted by January 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–635 Filed 1–9–02; 8:45 am]

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[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45230; File No. SR–CBOE–2001–68]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Extend for a Six-Month Period the Pilot Program for the Exchange's 100 Spoke RAES Wheel

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. CBOE filed the proposal pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE hereby proposes to extend, for an additional six-month period, the pilot program that permits the appropriate Floor Procedure Committee (''FPC'') to allocate orders on the Exchange's Retail Automatic Execution System (''RAES'') under the allocation system known as the 100 Spoke RAES Wheel. CBOE has designated this proposal as non-controversial and requests that the Commission waive the 30-day pre-operative waiting period set forth in Rule 19b–4(f)(6)(iii) under the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

Act[5] to allow the proposal to be effective and operative immediately upon filing with the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 25, 2000, the Commission approved, on a nine-month pilot basis, the Exchange's proposal to amend CBOE Rule 6.8, which governs the operation of RAES,[6] to provide the appropriate FPC with another choice for apportioning RAES trades among participating market makers, the 100 Spoke RAES Wheel.[7] The pilot program has been extended twice and will expire on December 28, 2001.[8] CBOE now proposes to extend the pilot program for an additional six-month period ending June 28, 2002.

CBOE states that it believes that the 100 Spoke RAES Wheel pilot program is used as anticipated. CBOE represents that use of the 100 Spoke RAES Wheel has expanded since its implementation; it is currently used in approximately three-fourths of the equity options trading stations. CBOE has represented that an extension of the pilot program is necessary to further study the pilot program. CBOE believes that an extension of the pilot program will continue to provide the appropriate FPC with flexibility in determining the appropriate allocation system for a given class of options on RAES. CBOE also believes that the continuation of the pilot program will continue to reward those market makers who are most active in providing liquidity to agency business in the assigned option class.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act.[9] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to facilitate transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE has asserted that, because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate), it has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally would not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day pre-operative waiting period, which would allow the Exchange to continue the pilot program without interruption. CBOE contends that, with the continuation of the pilot program, market makers will continue to have greater incentive to compete effectively for orders in the crowd, which benefits investors and promotes the public interest. In addition, CBOE argues that, given the widespread use of the 100 Spoke RAES Wheel in equity options trading stations, requiring the Exchange to discontinue use of the 100 Spoke RAES Wheel as of December 29, 2001, would cause disruption to those trading stations and, thus, be disruptive to investors and the public interest. In light of these considerations, the Commission, consistent with the protection of investors and the public interest, has determined to designate the proposed rule change as operative immediately.[13]

In addition, Rule 19b–4(f)(6) requires the self-regulatory organization submitting the proposed rule change to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. CBOE has requested that the Commission waive the five-day pre-filing requirement. Consistent with CBOE's request, the Commission has determined to waive the pre-filing requirement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] RAES is the Exchange's automatic execution system for public customer market or marketable limit orders of less than a certain size.

[7] *See* Securities Exchange Act Release No. 42824 (May 25, 2000), 65 FR 37442 (June 14, 2000). In those classes where the 100 Spoke RAES Wheel is employed, the percentage of RAES contracts assigned to a participating market maker is essentially identical to the percentage of non-RAES in-person agency contracts traded by that market maker in that class.

[8] *See* Securities Exchange Act Release No. 44020 (February 28, 2001), 66 FR 13985 (March 8, 2001) (six-month extension to August 28, 2001; Securities Exchange Act Release No. 44749 (August 28, 2001), 66 FR 46487 (September 5, 2001) (four-month extension to December 28, 2001).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *See* 15 U.S.C. 78s(b)(3)(C).

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–68 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–596 Filed 1–9–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45231; File No. SR–CBOE–2001–73]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated to Delete a Previously Proposed Fee for Excessive RFQs on Its New Screen-Based Trading System

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on December 27, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to modify the fee schedule for the Exchange's new screen-based trading platform by deleting a previously proposed fee for excessive requests for quote (''RFQs''). The text of the proposed rule change is available at the principal office of the Exchange and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to delete a previously proposed fee for excessive RFQs applicable to the Exchange's new screen-based trading system, CBOE*direct.*

CBO*direct* is CBOE's new options trading engine. A component of trading on CBOE*direct* is the RFQ process (although CBOE market-makers may be required to provide continuous two-sided markets in products traded on the system). RFQs generally provide a mechanism for gauging the marketing in a particular option series in connection with effecting a trade in such series. Because the RFQ process is not meant to serve exclusively as an unlimited price discovery mechanism, CBOE intends to adopt an excessive RFQ fee to help protect the CBOE*direct* system.

CBOE originally submitted an excessive RFQ fee in SR–CBOE–2001–57.[3] CBOE now seeks to delete that excess RFQ fee from its fee schedule in order to reevaluate how it intends to structure the fee. CBOE has represented that it expects to submit a new fee that will assist in addressing the costs associated with excessive RFQs in the near future.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with section 6(b) of the Act[4] in general and section 6(b)(4)[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments ere solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE represents that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A) of the Act[6] and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–73 and should be submitted by January 31, 2002.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45075 (November 19, 2001), 66 FR 59038 (November 26, 2001).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–597 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45226; File No. SR–CBOE–2001–69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Trade Information Submitted to the Exchange

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2001, the Chicago Board of Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on December 26, 2001.[3] The Exchange filed Amendment No. 2 to the proposed rule change on January 2, 2002.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the provisions of Interpretation and Policies .02 of CBOE Rule 6.51 to provide that members include the required trade information on orders that they submit to the Exchange. The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Chapter VI—Doing business on the Exchange Floor

Section C: Trading Practices and Procedures

* * * * *

Reporting Duties

RULE 6.51.(a) No change.
(b) No change.
(c) No change.
(d) No change.

Interpretations and Policies

.01 No change.

.02 *When entering orders on the Exchange, each Member shall submit trade information in such form as may be prescribed by the Exchange in order to allow the Exchange to properly prioritize and route orders pursuant to the rules of the Exchange and report resulting transactions to the Clearing Corporation.* [For purposes of Rule 6.51(d), trade information shall include the proper account origin codes, which are as follows: ''c'' for a customer account, ''f'' for a firm proprietary account, ''m'' for a member market-maker account, ''j'' for a non-member joint venture participant transaction in Exchange options contracts, ''y'' for any options account of a stock specialist relating to his assignment as specialist on the primary market for the underlying stock, ''b'' for a customer range account of a broker-dealer, and ''n'' for any account of a non-member market-maker or specialist relating to his assignment in a class of options listed for trading both at this Exchange and at the exchange of the market-maker or specialist.]

.03 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange states that the proposed rule change mimics the International Securities Exchange LLC (''ISE'') Rule 712[5] and amends Interpretations and Policies .02 of CBOE Rule 6.51 (''CBOE Rule 6.51.02'') to mandate that each Member must submit trade information in such form as may be prescribed by the Exchange in order to allow the Exchange to properly prioritize and route orders pursuant to the rules of the Exchange and report resulting transactions to the Options Clearing Corporation (''OCC'').[6] CBOE Rule 6.51(d) requires members to file with the Exchange trade information in such form as may be prescribed by the Exchange. CBOE Rule 6.51.02 states that ''trade information'' for purposes of Rule 6.51(d) shall include account origin codes. The purpose of this marking requirement is primarily twofold. First, origin codes ensure that orders route to the proper location (*e.g.,* PAR, RAES, Booth) and they provide the Exchange with a mechanism by which to surveil whether members are in fact marking orders correctly. Second, the marking requirement assists the OCC in the clearance of trades.

The Exchange currently lists seven origin codes in CBOE Rule 6.51.02,[7] and it has the systems capacity to accommodate 26 origin codes (one for each letter of the alphabet). Because the Exchange's origin codes are specifically listed in its rules, each time the Exchange determines to add, delete, or change an origin code, it must submit a rule filing to the Commission. This could require the submission of 19 separate rule filings if the Exchange were to add 19 new origin codes at different times.[8]

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[8] 17 CFR 200.20–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Madge M. Hamilton, Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 21, 2001 (''Amendment No. 1''). In Amendment No. 1, the CBOE made certain technical amendments to the proposal, amended the purpose section of the proposal and provided an enhanced statutory basis for the proposal. In addition, the CBOE requested that the Commission waive the 30-day period under which the proposal would become operative under Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[4] *See* letter from Steve Youhn, Attorney, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated December 28, 2001 (''Amendment No. 2''). In Amendment No. 2, the CBOE again amended the purpose section of the proposal, enhanced the statutory basis of the proposal and reiterated its request that the Commission waive the 30-day period under which the proposal would become operative under Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[5] Securities Exchange Act Release No. 43795 (January 3, 2001), 66 FR 2468 (January 11, 2001).

[6] Currently, Interpretations .02 states that trade information submitted under CBOE Rule 6.51(d) includes certain specific origin codes.

[7] The Exchange currently uses the following origin codes: ''c'' for a customer account, ''f'' for a firm proprietary account, ''m'' for a member market-maker account, ''j'' for a non-member joint venture participant transaction in Exchange options contracts, ''y'' for any options account of a stock specialist relating to his assignments as specialist on the primary market for the underlying stock, ''b'' for a customer range account of a broker dealer, and ''n'' for any account of a non-member market-maker or specialist relating to his assignment in a class of options listed for trading both at this Exchange and at the exchange of the market-maker or specialist. *See* CBOE Rule 6.51.02.

[8] Over the next several months, the Exchange anticipates listing several new origin codes to

Continued

Accordingly, the Exchange proposes to delete the language from CBOE Rule 6.51.02 that specifically references the seven specific origin codes and instead, replace it with language stating that members must ''submit trade information in such form as may be prescribed by the Exchange.'' This change will have two primary effects. First, it would eliminate the need for the Exchange to submit a rule filing each time it adds, deletes, or changes an origin code. Second, and more importantly, it would allow the Exchange to continue to ensure that members submit requisite trade information, including origin codes, in an Exchange-dictated manner.

The Exchange notes that the proposed change to CBOE Rule 6.51.02 would not eliminate the requirement that members submit tickets with origin codes. Rather, this change simply eliminates the specific origin codes from CBOE Rule 6.51.02. Members would still be required to submit orders with origin codes. Upon approval of this filing, the Exchange will notify members of the current order marking requirements (*i.e.,* valid origin codes) by regulatory circular. As such, each time the Exchange adds, deletes, or changes an origin code, it will distribute a regulatory circular to the membership apprising it of the change. The Exchange believes that this will ensure that the Exchange's membership is aware of the applicable origin codes with which it must mark order tickets.

(2) Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5),[10] in particular, in that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change would enhance the Exchange's ability to surveil for and investigate potential fraudulent and manipulative conduct. Since the proposed rule change would enhance the Exchange's ability to conduct investigations and surveillance for misconduct, it would protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4[12] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

The Commission notes that under Rule 19b–4(f)(6)(iii), the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date.[14] The Exchange contends that acceleration of the operative date is consistent with the protection of investors and the public interest because the language of this proposed rule is substantially similar to rule language that was put out for notice and comment when ISE submitted its proposed rule change. For this reason, consistent with Section 19(b)(2) of the Act,[15] the Commission finds good cause to waive the 30-day operative period.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–69 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

accommodate linkage orders. This could require the submission of several rule filings if all origin codes are not added at the same time. For example, ''Principal Account'' orders will require a separate origin code, ''Principal Acting as Agent'' orders will require a separate origin code, and ''Principal Account Satisfaction Order'' will require another separate code.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on January 2, 2002, the date the CBOE filed Amendment No. 2.

[14] *See* Amendment No. 2, *supra* note 4.

[15] 15 U.S.C. 78s(b)(2).

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45237; File No. SR–CHX–2001–29]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Listing and Trading of Trust Issued Receipts

January 4, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add an Interpretation and Policy relating to Article XXVIII, Rule 27 of the CHX Rules, which governs the listing of Trust Issued Receipts (''TIRs'') on the CHX. The new Interpretation and Policy will confirm the eligibility requirements for Component Securities represented by a series of TIRs that became part of such TIR when the security was either: (a) Distributed by a company whose securities were already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security that are no longer outstanding due to a merger, consolidation, corporate combination or other event. The text of the proposed rule filing is below. Additions are in italics; deletions are in brackets.

Chicago Stock Exchange Rules

Article XXVIII

* * * * *

Trust Issued Receipts

Rule 27 No change to text

Interpretation*s* and Polic*ies*[*y*]

.01 No change in text.

.02 The eligibility requirements for Component Securities that are represented by a series of Trust Issued Receipts and that became part of the Trust Issued Receipt when the security was either: (a) Distributed by a company already included as a Component Security in the series of Trust Issued Receipts; or (b) received in exchange for the securities of a company previously included as a Component Security that is no longer outstanding due to a merger, consolidation, corporate combination or other event, shall be as follows:

(i) the Component Security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;

(ii) the Component Security must be registered under section 12 of the Exchange Act; and

(iii) the Component Security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by Component Securities included in the Trust Issued Receipt at the time of the distribution or exchange.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add an Interpretation and Policy relating to Article XXVIII, Rule 27 of the CHX Rules, which governs the listing of TIRS on the CHX. The new Interpretation and Policy will confirm the eligibility requirements for Component Securities represented by a series of TIRs that became part of such TIR when the security was either: (a) Distributed by a company whose securities were already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security that are no longer outstanding due to a merger, consolidation, corporate combination or other event.

Article XXVIII, Rule 27 of the CHX Rules set forth the eligibility criteria for Component Securities represented by a series of TIRs. The current version of the rule does not contain eligibility criteria for Component Securities that are automatically deposited into a TIR as a result of a distribution or corporate event. Accordingly, the CHX proposes the following eligibility requirements for such Component Securities: (i) The Component Security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security; (ii) the Component security must be registered under section 12 of the Act; and (iii) the Component Security & Poor's Sector Classification represented by Component Securities included in the TIR at the time of the distribution or exchange.

The CHX believes that it is appropriate in these limited situations to provide alternate eligibility criteria for Component Securities. To reduce the number of distributions of securities from the TIR which cause inconvenience and increased transaction and administrative costs for investors, it is useful to allow certain securities that are received as part of a distribution from a company or as the result of a merger, consolidation, corporate combination or other event to remain in the TIR. The proposed eligibility requirements ensure that Component Securities included in a TIR as a result of a distribution or exchange event are widely held (having been distributed to all of the shareholders holding the original Component Security), traded through the facilities of an exchange or Nasdaq and registered under section 12 of the Act.

Notably, the Exchange believes that the proposed rule change is substantially similar to rule filings previously approved on an accelerated basis by the Commission.[3]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 44309 (May 16, 2001), 66 FR 28587 (May 23, 2001) (File No. SR–Amex–2001–04); 44928 (October 12, 2001), 66 FR 53457 (October 22, 2001) (File No. SR–BSE–2001–05); and 44826 (September 20, 2001, 66 FR 49990 (October 1, 2001) (File No. SR–Phlx–2001–75).

6(b) of the Act [4] in general, and furthers the objectives of section 6(b)(5) [5] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspecation and copying at the principal office of the CHX. All submissions should refer to the File No. SR–CHX–2001–29 and should be submitted by January 31, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5) of the Act.[6] Specifically, the Commission finds that the proposal to provide an alternate eligibility criteria for Component Securities received as part of a distribution or as a result of a merger, consolidation, corporate combination or other event to remain in the trust will promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers issuers, brokers, or dealers.[7]

The CHX has requested that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to section 19(b)(2).[9] As noted above, the Commission has previously approved proposed rule changes by other exchanges that provided similar eligibility requirement.[10] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds that it is consistent with section 6(b)(5) of the Act[11] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CHX–2001–29) is hereby approved on an accelerated basis.

For the Commission, by the Divsiion of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–634 Filed 1– 9–02; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] *See supra* note 3.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 45192; File No. SR–Phlx–2001–106]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Exchange Rule 98, Emergency Committee Until May 30, 2002

December 26, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 23, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot program period for Rule 98, Emergency Committee until May 30, 2002. No changes to the existing rule language are being proposed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The Exchange filed the pre-filing notice required by Rule 19b–4(f)(6) by filing a written description of the proposed rule change and the text of the proposed rule change on November 16, 2001.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 23, 1999, the Commission approved amendments to Rule 98, Emergency Committee (the ''Committee''), which updated the composition of the Committee to reflect the current governance structure of the Exchange, on a 120-day pilot basis.[5] The pilot has been extended five times, most recently to November 30, 2001.[6] The pilot program is being extended again to May 30, 2002 as the Exchange and the Commission consider other changes to the composition of the Committee.

The Exchange originally proposed to amend Rule 98, Emergency Committee, by updating the composition of the Committee to correspond with previous revisions to the Exchange's governance structure,[7] and by deleting a provision authorizing the Committee to take action regarding CENTRAMART, an equity order reporting system which is no longer used on the Exchange Equity Floor.

The Committee was formed in 1989[8] prior to the aforementioned changes to the Exchange's governance structure. The original proposed rule change, approved by the Commission, deleted the word ''President'' from the rule, as the Exchange no longer has a ''President,'' and included the Exchange's On-Floor Vice Chairman[9] as a member of the Committee.

Thus, Rule 98 specifies the composition of the Emergency Committee to include the following individuals: The Chairman of the Board of Governors; the On-Floor Vice Chairman of the Board of Governors; and the Chairmen of the Options Committee, the Floor Procedure Committee, and the Foreign Currency Options Committee.

Extension of the pilot program through May 30, 2002 permits the Committee to reflect the current governance structure of the Exchange and ensures that the Committee will be in place to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.[10] The extension of the pilot program will also allow the Exchange and the Commission the necessary time to propose changes to the Committee's structure to meet the Commission's concerns about whether the Committee ensures that all interests of the Exchange (*e.g.,* On-Floor and Off-Floor) are adequately represented by the Committee, particularly in light of the events of September 11, 2001.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6[11] of the Act in general, and with Section 6(b)(5)[12] of the Act in specific, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by updating the composition of the Emergency Committee to reflect the current governance structure of the Exchange, and by continuing to provide a regular procedure for the Exchange to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder because the proposed rule change does not (i) significantly affect the protection of investors or their public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which the proposed rule change was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds that it is appropriate to accelerate the operative date of the proposed rule change and to permit the proposed rule change to become immediately operative because the proposal simply extends a previously approved pilot program until May 30, 2002. No changes to Rule 98 are being proposed at this time and the Commission has not received any comments on the pilot program. In addition, the Exchange appropriately filed a pre-filing notice as required by Rule 19b–4(f)(6).[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

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[5] Securities Exchange Act Release No. 42272 (December 23, 1999), 65 FR 153 (January 3, 2000) (SR–Phlx–99–42). In the approval order, the Commission requested that the Exchange examine the operation of the Committee to ensure that the Committee is not dominated by any one Exchange interest (*e.g.,* On-Floor or Off-Floor interest). The Commission requested that the Exchange report back to the Commission on its views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee.

[6] Securities Exchange Act Release No. 42898 (June 5, 2000), 65 FR 36879 (June 12, 2000) (SR–Phlx–00–41), extending the pilot program until August 21, 2000; Securities Exchange Act Release No. 43169 (August 17, 2000), 65 FR 51888 (August 25, 2000) (SR–Phlx–00–76), extending the pilot program until November 17, 2000. On July 14, 2000, the Exchange filed a proposed rule change to effect the amendments on a permanent basis. SR–Phlx–00–63 (filed July 14, 2000). In SR–Phlx–00–63 the Exchange also enclosed the Exchange's views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee. Because the Exchange was considering further changes to the Committee, SR–Phlx–00–63 was withdrawn on June 15, 2001. The pilot program was extended again until April 30, 2001, Securities Exchange Act Release No. 43614 (November 22, 2000), 65 FR 75332 (December 1, 2000) (SR–Phlx–00–101); and again until July 31, 2001, Securities Exchange Act Release No. 44245 (May 1, 2001), 66 FR 23961 (May 10, 2001) (SR–Phlx–2001–44). The last extension of the pilot program was until November 30, 2001. Securities Exchange Act Release No. 44653 (August 3, 2001), 66 FR 43289 (August 17, 2001) (SR–Phlx–2001–70).

[7] *See* Securities Exchange Act Release No. 38960 (August 22, 1997), 62 FR 45904 (August 29, 1997) (SR–Phlx–97–31).

[8] *See* Securities Exchange Act Release No. 26858 (May 22, 1989), 54 FR 23007 (May 30, 1989) (SR–Phlx–88–36).

[9] *See also* Exchange By-Law, Article IV, Section 4–2.

[10] Previously, the Exchange has described ''extraordinary market or emergency conditions'' as, among other things, a declaration of war, a presidential assassination, an electrical blackout, or events such as the 1987 market break or other highly volatile trading conditions that require intervention for the market's continued efficient operation. Letter dated March 15, 1989, from William W. Uchimoto, General Counsel, Exchange, to Sharon L. Itkin, Esquire, Commission, Division of Market Regulation.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such fling will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR–Phlx–2001–106 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–595 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45233; File No. SR–Phlx–2001–116]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Its Schedule of Dues, Fees and Charges To Increase the Equity Floor Brokerage Assessment

January 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its schedule of dues, fees and charges to increase the equity floor brokerage assessment from 1.25% of net floor brokerage income to 5%. The increased equity floor brokerage assessment fee will be implemented on transactions settling on or after January 2, 2002. Previously, the Exchange charged a 5% equity floor brokerage assessment fee but offered equity specialist units that also conducted floor brokerage business on the Exchange a discounted rate on the assessment at 1.25%. That discounted rate was subsequently extended to all equity floor brokerage.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Currently, the Exchange assesses a monthly fee on the amount of money a floor broker bills to its customers each month for floor brokerage services with respect to equity securities. The current rate is 1.25% of net floor brokerage income and has been in effect for over four years. Given the costs of operating the Exchange's equities trading floor, the Exchange believes that it is now necessary to increase the equity floor brokerage assessment fee to 5%. The Exchange notes that prior to reducing the equity floor brokerage assessment fee to 1.25% in November 1997,[4] the rate was 5% for floor brokerage units only and specialist units that conducted a floor brokerage business were charged a discounted rate of 1.25%. Furthermore, the Exchange notes that the increased rate of 5% is the same rate that is currently charged on equity and index options floor brokerage.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[5] of the Act in general and, in particular, with section 6(b)(4)[6] of the Act, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee or other charge imposed by the Exchange, has become effective pursuant to section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 39325 (November 13, 1997), 62 FR 62395 (November 21, 1997).

[4] *Id.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–116 and should be submitted by January 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–598 Filed 1–9–02; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Individual Law Enforcement Agencies)—Match Number 5001

AGENCY: Social Security Administration (SSA).

ACTION: Notice of computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with individual law enforcement agencies.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Acting Associate Commissioner for Program Support, 2–Q–16 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Acting Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 4, 2002.

Frederick G. Streckewald,

Acting Assistant Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With Individual Law Enforcement Agencies

A. PARTICIPATING AGENCIES

SSA and Source Jurisdiction.

B. PURPOSE OF THE MATCHING PROGRAM

This agreement establishes conditions under 5 U.S.C. 552a, as amended, for a matching operation that will identify individuals who are both fugitive felons or parole or probation violators from the Source Jurisdiction and are also Supplemental Security Income (SSI) recipients. Such individuals may be receiving benefits or payments improperly. The disclosure will provide SSA and the Office of the Inspector General for SSA with information about fugitive felons or parole or probation violators who are also SSI recipients. The SSI program was created under title XVI of the Social Security Act (''Act'') to provide benefits to individuals with income and resources below levels established by law and regulations.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM

Sections 1106, 1611(e)(4) and (5) of the Act (42 U.S.C. 1306, 1382 (e)(4)and (5)).

D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM

The Source Jurisdiction will provide SSA with electronic files/records compiled from various databases. These records will identify individuals for SSA who come under the definition of fugitive felons or the definition of probation or parole violators set out in the matching agreement. The incoming Source Jurisdiction records will be matched against the following systems of records to identify individuals potentially subject to termination of benefit or payment eligibility under applicable requirements of the above-described benefit program: SSA's Supplemental Security Income Record and Special Veterans Benefits (SSA 60–0103) and Master Files of Social Security Number (SSN) Holders and SSN Applications (SSA 60–0058).

E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The matching program will become effective upon signing of the agreement by both parties to the agreement and approval of the agreement by SSA's Data Integrity Board, but no sooner than 30 days after notice of this matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 02–666 Filed 1–9–02; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice 3842]

Office of Recruitment, Examination, and Employment; 60-Day Notice of Proposed Information Collection: Thomas R. Pickering Foreign Affairs Fellowship Program

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and

[9] 17 CFR 200.30–3(a)(12).

Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: New.

Originating Office: HR/REE.

Title of Information Collection: Thomas R. Pickering Foreign Affairs Fellowship Program.

Frequency: Annual.

Form Number: None.

Respondents: University Graduate and Undergraduate Students.

Estimated Number of Respondents: 250.

Average Hours Per Response: 40.

Total Estimated Burden: 3,750.

Average Cost Per Applicant: $50.

Total Estimated Cost Burden: $12,500.

- Public comments are being solicited to permit the agency to:
- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to LeAnn Bullin, Department of State, 2401 E Street, NW., 5H, Washington, DC 20522, who may be reached on 202–261–8927.

Dated: November 2, 2001.

Ruth Whiteside,

Principal Deputy Assistant Secretary, Bureau of Human Resources, Department of State.

[FR Doc. 02–663 Filed 1–9–02; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

Office of Foreign Missions

[Public Notice 3874]

30-Day Notice of Proposed Information Collection: Form DS–1504, Request for Customs Clearance of Merchandise (OMB Control #1405–0104)

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Re-instatement of an expired information collection.

Originating Office: Bureau of Diplomatic Security, Office of Foreign Missions, DS/OFM/VTC/TC.

Title of Information Collection: Request for Customs Clearance of Merchandise.

Frequency: On occasion.

Form Number: DS–1504.

Respondents: Eligible members of foreign diplomatic or consular missions, certain foreign government organizations, designated international organizations and certain categories of foreign military personnel assigned to a foreign mission in the United States. The White House also uses this form when it requests duty-free entry of a shipment.

Estimated Number of Respondents: Approximately 7,000 individual respondents, 1,034 organizational respondents, and the White House.

Average Hours per Response: The average time per response is approx. 15 minutes.

Total Estimated Burden: 3,072 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection form and supporting documents may be obtained from Mr. Edmond McGill, DS/OFM/VTC/TC, 3507 International Place, NW., U.S. Department of State, Washington, DC 20008, tel.: 202–895–3618. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: November 27, 2001.

Theodore Strickler,

Deputy Assistant Secretary of State and Deputy Director, Office of Foreign Missions, Bureau of Diplomatic Security, U.S. Department of State.

[FR Doc. 02–662 Filed 1–9–02; 8:45 am]

BILLING CODE 4710–43–U

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Submission for OMB review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523. Comments should be sent to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Tennessee Valley Authority by February 11, 2002.

Type of Request: Regular submission.

Title of Information Collection: TVA Aquatic Plant Management.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 800.

Estimated Total Annual Burden Hours: 160.

Estimated Average Burden Hours Per Response: .2 (12 minutes).

Need for and Use of Information: TVA is committed to involving the public in developing plans for managing aquatic plants in individual TVA lakes under a Supplemental Environmental Impact Statement completed in August 1993. This proposed survey will provide a mechanism for obtaining input into this planning process from a representative sample of people living near each lake. The information obtained from the survey will be factored into the development of aquatic plant management plans for mainstream Tennessee River lakes.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations Information Services.

[FR Doc. 02–610 Filed 1–9–02; 8:45 am]

BILLING CODE 8120–08–U

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The Regional Resource Stewardship Council (Regional Council) will hold a meeting to consider various matters. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2, (FACA).

The meeting agenda includes the following briefings:

1. Feedback from TVA on the Recommendations Submitted to the TVA Board of Directors
2. Recommendation on Appropriations Funding of TVA Nonpower Programs
3. Recommendation from the Water Quality Subcommittee on Water Use Management
4. Public Comments
5. Progress Report on the Reservoir Operations Study
6. Discussion of Recommendations
7. Status of the Council Report from TVA

It is the Regional Council's practice to provide an opportunity for members of the public to make oral public comments at its meetings. Public comment session is scheduled from 1 to 2 p.m. Central time. Members of the public who wish to make oral public comments may do so during the Public comment portion of the agenda. Up to one hour will be allotted for the Public comments with participation available on a first-come, first-served basis. Speakers addressing the Council are requested to limit their remarks to no more than 5 minutes. Persons wishing to speak register at the door and are then called on by the Council Chair during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902.

DATES: The meeting will be held on Thursday, January 31, 2002, from 8 a.m. to 4:30 p.m. Central Standard Time. Public comments are scheduled to begin at 1 p.m., ending by 2 p.m. Central Time.

ADDRESSES: The meeting will be held at the Huntsville Marriott, 5 Tranquility Base, Huntsville, Alabama 35805, and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Sandra L Hill, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902, (865) 632–2333.

Dated: January 3, 2002.

Kathryn J. Jackson,

Executive Vice President, River System Operations and Environment, Tennessee Valley Authority.

[FR Doc. 02–611 Filed 1–9–02; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

New Mail Delivery/Document Filing Information Relating to Department of Transportation Informal Rulemaking Proceedings and Certain Preemption Determination Proceedings

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice.

SUMMARY: The Department of Transportation now is receiving all United States Postal Service (USPS) deliveries. However, actions taken over the last three months in response to the September 11 terrorist attacks and to contain the anthrax threat have significantly delayed or prevented our receipt of mail sent to DOT. These actions may have caused filings related to DOT informal rulemaking and certain preemption determination proceedings to arrive after the close of the comment period or not at all. We are providing notice of alternative methods for ensuring that your filings come to us. We also want to assure you that we will do everything that we can to consider comments that we otherwise would have received before the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Gwyneth Radloff, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–9319. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: After the September 11, 2001, terrorist attacks, overnight shippers, e.g., FEDEX, advised the U.S. Department of Transportation (DOT) offices that they faced delivery delays because the airlines had been grounded. In addition, DOT requested that, beginning October 16, 2001, the United States Postal Service (USPS) halt most mail deliveries until it could put in place appropriate safety measures to address the potential threat from anthrax-contaminated mail. Mail caught in transit between October 13 and October 22 at DC's Brentwood Facility, where testers found traces of anthrax, may be part of quarantined mail that we might never receive (although we did get one delivery on October 22, 2001). Mail sent to DOT from mid-October to November 27 has been significantly delayed. DOT began receiving mail again on November 28. Even now, the USPS continues to irradiate first class and express mail bound for DOT. This means that we will receive mail after delays of a week or more. We do not know the full extent of the impact delayed or blocked mail delivery will have on our informal rulemaking proceedings and preemption determination proceedings for the Research and Special Programs Administration and Federal Motor Carrier Safety Administration.

We wish to advise the public that we will take this interruption of mail service into account, with respect to DOT rulemakings or preemption determination proceedings with comment periods that closed before mail delivery resumed on November 28, 2001. In some cases, where feasible, our agencies are extending or reopening comment periods. In other cases, we will do everything possible to ensure that we consider comments that we otherwise would have received before the close of the comment period. For example, we generally have the authority to consider late-filed

comments and will do so to the extent practicable. We will also take note of the date of the USPS postmark for late-filed comments. Please note that Docket Office time stamps all items as they receive them.

Because we cannot be sure if we received filings sent just before October 13 or when, if ever, we will receive filings and comments caught in Brentwood between October 13 and November 27, please check our Dockets Web page (*http://dms.dot.gov*) to see if we received and processed your document(s). If your document is not in the electronic docket, we may not have received it. Please bear in mind that processing a document into the electronic system after receipt may take up to eight business days, especially since the DOT Mail Room must x-ray and screen all package deliveries prior to their acceptance into the DOT Docket Management System. If you do not have the electronic capability to check the docket, many public libraries have computers that you can use to electronically search the DOT dockets. Also, you can come to DOT and use the reading room computers in our Dockets Office, which is located on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, and is open between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

If your check of the docket reveals that we have not received your document, please fax us a copy at 202–493–2251 or resubmit your document with a notation that you are resending it. Please send it to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Please make sure the docket number is noted on the first page. We ask you to take these steps as soon as possible so that we will be able to consider your comments if we still can.

This notice addresses only preemption determination proceedings of the Research and Special Programs Administration and the Federal Motor Carrier Safety Administration and informal rulemaking proceedings conducted by any of the Department's agencies: the Bureau of Transportation Statistics, the Federal Aviation Administration, the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the Federal Transit Administration, the Maritime Administration, the National Highway Traffic Safety Administration, the Office of the Secretary, the Research and Special Programs Administration, the St. Lawrence Seaway Development Corporation, and the U.S. Coast Guard.

We currently are accepting U.S. mail delivery by the USPS and deliveries from alternate delivery carriers. We also are accepting hand-delivered packages in the Docket Office, which is located on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, where possible, we encourage filers to use our Electronic Submission System on the DOT Dockets Web page (*http://dms.dot.gov*) by clicking on ES Submit and following the online instructions.

Issued in Washington, DC, on December 31, 2001.

Kirk K. Van Tine,

General Counsel.

[FR Doc. 02–657 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity To Participate, Criteria Requirements and Change of Application Procedure for Participation in the Military Airport Program (MAP)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of criteria and application procedure for designation or re-designation, for the fiscal year 2002 MAP.

SUMMARY: This notice announces the criteria, application procedures and schedule to be applied by the Secretary of Transportation in designating or re-designating, and funding capital development annually for 15 current (joint-use) or former military airports seeking designation or re-designation to participate in the MAP. This Notice reflects and incorporates changes made to MAP in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.

The MAP allows the Secretary to designate current (joint-use) or former military airports for which grants may be made under the Airport Improvement Program (AIP). The Secretary is authorized to designate an airport (other than an airport so designated before August 24, 1994) if: (1) The airport is a former military installation closed or realigned under the Title 10 U.S.C. 2687 announcement of closures of large Department of Defense installations after September 30, 1977, or under section 201 or 2905 of the Defense Authorization Amendments and Base Closure and Realignment Acts; or (2) the airport is a military installation with both military and civil aircraft operations. The Secretary shall consider for designation only those current or former military airports, at least partly converted to civilian airports as part of the national air transportation system, that will reduce delays at airports with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings, or will enhance airport and air traffic control system capacity in metropolitan areas or reduce current and projected flight delays (49 U.S.C. 47118(c)).

DATES: Airport sponsors should address written applications for new designation and re-designation in the MAP to the FAA Regional Airports Division or Airports District Office that serves the airport. That office of the FAA must receive applications on or before February 14, 2002.

ADDRESSES: Submit an original and two copies of Standard Form (SF) 424, ''Application for Federal Assistance,'' prescribed by the Office of Management and Budget Circular A–102, available at *http://www.whitehouse.gov/OMB/grants/index.html,* along with any supporting and justifying documentation. Applicant should specifically request to be considered for designation or re-designation to participate in the fiscal year 2002 MAP. Submission should be sent to the Regional FAA Airports Division or Airports District Office that serves the airport. Applicants may find the proper office on the FAA Web site *http://www.faa.gov/arp/arphome.htm* or may contact the office below.

FOR FURTHER INFORMATION CONTACT: Mr. Murdock (*oliver.murdock@faa.gov*) or Leonard C. Sandelli (*len.sandelli@faa.gov*), Military Airport Program Branch (APP–420), Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8244, or (202) 267–8785, respectively.

SUPPLEMENTARY INFORMATION:

General Description of the Program

The MAP provides capital development assistance to civil airport sponsors of designated current (joint-use) military airfields or former military airports that are included in the FAA's National Plan of Integrated Airport Systems (NPIAS). Airports designated under the program may obtain funds from a set-aside (currently four-percent) of AIP discretionary funds to undertake eligible airport development, including

certain types of projects not otherwise eligible for AIP assistance. Such airports may also be eligible to receive grants from other categories of AIP funding.

Number of Airports

A maximum of 15 airports per fiscal year may participate in the MAP at any time. There are 5 slots available for designation or re-designation in FY 2002.

Term of Designation

The maximum period of eligibility for any airport to participate in the MAP is five fiscal years following designation. An airport sponsor having previously been in the program may apply for re-designation and, if found to satisfy the designation criteria upon reapplication, may have the opportunity to participate for subsequent periods, each not to exceed five fiscal years. The FAA can designate airports for a period less than five years. The FAA will evaluate the conversion needs of the airport in its five-year capital development plan to determine the appropriate length of designation.

Re-designation

Title 49 of the United States Code section 47118(d), permits previously designated airports to apply for re-designation. Applicants reapplying need to meet current eligibility criteria set forth at 49 U.S.C. 47118(a). Re-designation will be considered largely in terms of warranted projects fundable under AIP solely through the MAP. The airport must have MAP eligible projects and the airport must continue to satisfy the designation criteria for the MAP. The FAA will carefully evaluate applications for re-designation, as new candidates tend to have the greatest conversion needs.

Eligible Projects

In addition to other eligible AIP projects, passenger terminal facilities, fuel farms, utility systems, surface automobile parking lots, hangars, and air cargo terminals up to 50,000 square feet of floor space are all eligible to be funded from the MAP. Designated or re-designated military airports can receive not more than $7,000,000 each fiscal year for projects to construct, improve, or repair terminal building facilities. Also, designated or re-designated military airports can receive not more than a total of $7,000,000 for MAP eligible projects that include hangars, cargo facilities, fuel farms, automobile surface parking, and utility work.

Designation Considerations

In making designations of new candidate airports, the Secretary of Transportation may only designate an airport (other than an airport so designated before August 24, 1994) if it meets the following general requirements:

(I)(1) The airport is a former military installation closed or realigned under—

(A) Section 2687 of title 10;

(B) Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (BRAC) (10 U.S.C. 2687 note); or

(C) Section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

(2) The airport is a military installation with both military and civil aircraft operations.

(II) The airport is classified as a commercial service or reliever airport in the NPIAS. One of the designated airports, if included in the NPIAS, may be a general aviation (GA) airport (public airport other than an air carrier airport, 14 CFR 152.3) that was a former military installation closed or realigned under BRAC, as amended, or 10 U.S.C. 2687. (49 U.S.C. 47118(g)). There is no general aviation slot available this fiscal year because the slot was assigned to Oscoda-Wurtsmith for two years. FY 2002 is that airport's second year.

(III) In designating new candidate airports, the Secretary shall consider if a grant would:

(1) Reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

(2) Enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.

The application for new designations will be evaluated in terms of how the proposed airport and associated projects would contribute to congestion relief and/or how the airport would enhance air traffic or airport system capacity and provide adequate user services.

Project Evaluation

Recently approved Base Closure and Realignment Acts or Title 10 U.S.C. 2678 military airports as well as active military airfields with new joint use agreements will be in the greatest need of funding to convert to or to incorporate civil airport operations successfully. Newly converted airports and new joint-use locations frequently have minimal capital development resources and will therefore receive priority consideration for designation and MAP funding. The FAA will evaluate the need for eligible projects based upon information in the candidate airport's five year Airport Capital Improvement Plan (ACIP). Of particular concern is whether these projects are related to development of that airport and/or the air traffic control system. It is the intent of the Secretary of Transportation to fund those airport projects where the benefits to the capacity of the air traffic control or airport systems can be maximized, and/or where the contribution to reducing congestion can be maximized.

1. The FAA will evaluate the candidate airports and/or the airports such candidate airports would relieve based on the following specific factors:

- Compatibility of airport roles and the ability of the airport to provide an adequate airport facility;
- The capability of the candidate airport and its airside and landside complex to serve aircraft that otherwise must use the relieved airport;
- Landside surface access;
- Airport operational capability, including peak hour and annual capacities of the candidate airport;
- Potential of other metropolitan area airports to relieve the congested airport;
- Ability to satisfy, relieve or meet air cargo demand within the metropolitan area;
- Forecasted aircraft and passenger levels, type of air carrier service anticipated, i.e., scheduled and/or charter air carrier service;
- Type and capacity of aircraft projected to serve the airport and level of operations at the relieved airport and the candidate airport;
- The potential for the candidate airport to be served by aircraft or users, including the airlines, serving the congested airport;
- Ability to replace an existing commercial service or reliever airport serving the area; and
- Any other documentation to support the FAA designation of the candidate airport.

2. The FAA will evaluate the development needs, which if funded, would make the airport a viable civil airport that will enhance system capacity or reduce delays. Newly closed installations or airport sponsors with new joint-use agreements with existing military aviation facilities will be strongly considered for designation since they tend to have the greatest conversion needs.

Application Procedures and Required Documentation

Airport sponsors applying for designation or re-designation must complete and submit an SF 424,

''Application for Federal Assistance,'' and supporting documentation to the appropriate FAA office serving that airport. The SF 424 must indicate whether it is an initial application or reapplication for the MAP, and must be accompanied by the documentation and justification listed below:

(A) Identification as Current or Former Military Airport. The application must identify the airport as either a current or former military airport and indicate whether it was:

(1) Closed or realigned under section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, and/or section 2905 of the Defense Base Closure and Realignment Act of 1990 (Installations Approved for Closure by the Defense Base Realignment and Closure Commissions), or

(2) Closed or realigned pursuant to 10 U.S.C. 2687 as excess property (bases announced for closure by DOD pursuant to this title after September 30, 1977 (this is the date of announcement for closure and not the date of the deed to the airport sponsor)), or

(3) A military installation with both military and civil aircraft operations.

(B) Qualifications for MAP:

For (1) through (7) below the applicant does not need to resubmit any unchanged documentation that has been previously submitted to the Regional Airports Division or Airports District Office.

(1) Documentation that the airport meets the definition of a ''public airport'' as defined in 49 U.S.C. 47102(16).

(2) Documentation indicating that the required environmental review process for civil reuse or joint-use of the military airfield has been completed. This environmental review would not include review of the individual projects to be funded by the MAP. Rather, the documentation should reflect that the environmental review necessary to convey the property, enter into a long-term lease, or sign a joint use agreement has been completed. The military department conveying or leasing the property, or entering into a joint use agreement, generally has the lead responsibility for this environmental review. The environmental review and approvals must indicate that the operator or owner of the airport has good title; satisfactory to the Secretary, or gives assurance that good title will be acquired, to meet AIP requirements.

(3) In the case of a former military airport, documentation that the eligible airport sponsor holds or will hold satisfactory title, a long-term lease in furtherance of conveyance of property for airport purposes, or a long-term interim lease for 25 years or more, to the property on which the civil airport is being located. Documentation that an application for surplus or BRAC airport property has been accepted by the Government is sufficient to indicate the eligible airport sponsor holds or will hold adequate title or a long-term lease.

(4) In the case of a current military airport documentation that the airport sponsor has an existing joint-use agreement with the military department having jurisdiction over the airport. This is necessary so the FAA can legally issue grants to the sponsor.

(5) Documentation that the service level of the airport is expected to be classified as a ''commercial service airport'' or a ''reliever airport'' as defined in 49 U.S.C. 47102(7) and 47102(18).

(6) Documentation that the airport owner is an eligible airport ''sponsor'' as defined in 49 U.S.C. 47102(19).

(7) Documentation that the airport has an unconditionally approved airport layout plan (ALP) and a five-year Airport Capital Improvement Program (ACIP) indicating all eligible grant projects seeking to be funded either from the MAP or other portions of the AIP.

(8) Information identifying the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and, if applicable, the relieved airport. Also, if applicable, information on how the airport contributes to air traffic system or airport system capacity. If served by commercial air carriers, the revenue passenger and cargo levels should be provided.

(9) A description of the airport's projected civil role and development needs for transitioning from use as a military airfield to a civil airport, including how development projects would serve to reduce delays at an airport with more than 20,000 hours of annual delays by commercial passenger aircraft takeoffs and landings or enhance capacity in a metropolitan area.

(10) A description of the existing airspace capacity. Describe how anticipated new operations would affect the surrounding airspace and air traffic flow patterns in the metropolitan area in or near which a current or former military airport is located. Include a discussion of the level to which operations at this airport create airspace conflicts that may cause congestion or whether air traffic works into the flow of other air traffic in the area.

(11) A description of the airport's five-year ACIP, including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs. The ACIP must specifically identify the safety, capacity and conversion related projects, associated costs, and projected five-year schedule of project construction, including those requested for consideration for MAP funding.

(12) A description of those projects that are consistent with the role of the airport and effectively contribute to the joint use or conversion of the airfield to a civil airport. The projects can be related to various improvement categories depending on what is needed to convert from military to civil airport use, to meet required civil airport standards, and/or to provide capacity to the airport and/or airport system. The projects selected; i.e., safety-related, conversion-related, and/or capacity-related, must be identified and fully explained based on the airport's planned use. Those projects that may be eligible under MAP, if needed for conversion or capacity-related purposes, must be clearly indicated, and include the following information:

Airside:

- Modification of airport or military airfield for safety purposes, including airport pavements modifications (i.e. widening), marking, lighting, strengthening, drainage or modifying other structures or features in the airport environs to meet civil standards for airport imaginary surfaces as described in 14 CFR part 77.
- Construction of facilities or support facilities such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use.
- Modification of airport or military utilities (electrical distribution systems, communications lines, water, sewer, storm drainage) to meet civil standards. Also, modifications that allow utilities on the civil airport to operate independently, where other portions of the base are conveyed to entities other than the airport sponsor or retained by the Government.
- Purchase, rehabilitation, or modification of airport and airport support facilities and equipment, including snow removal, aircraft rescue, fire fighting buildings and equipment, airport security, lighting vaults, and reconfiguration or relocation of eligible buildings for more efficient civil airport operations.
- Modification of airport or military airfield fuel systems and fuel farms to accommodate civil aviation use.
- Acquisition of additional land for runway protection zones, other

approach protection, or airport development.

• Cargo facility requirements.

• Modifications which will permit the airfield to accommodate general aviation users.

Landside:

• Construction of surface parking areas and access roads to accommodate automobiles in the airport terminal and air cargo areas and provide an adequate level of access to the airport.

• Construction or relocation of access roads to provide efficient and convenient movement of vehicular traffic to, on, and from the airport, including access to passenger, air cargo, fixed base operations, and aircraft maintenance areas.

• Modification or construction of facilities such as passenger terminals, surface automobile parking lots, hangars, air cargo terminal buildings, and access roads to cargo facilities to accommodate civil use.

(13) An evaluation of the ability of surface transportation facilities (road, rail, high-speed rail, maritime) to provide intermodal connections.

(14) A description of the type and level of aviation and community interest in the civil use of a current or former military airport.

(15) One copy of the FAA-approved ALP for each copy of the application. The ALP or supporting information should clearly show capacity and conversion related projects. Also, other information such as project costs, schedule, project justification, other maps and drawings showing the project locations, and any other supporting documentation that would make the application easier to understand should be included. These maps and ALP's should be cross-referenced with the project costs and project descriptions.

Re-designation of Airports Previously Designated and Applying for Up to an Additional Five Years in the Program

Airports applying for re-designation to the Military Airport Program need to submit the same information required by new candidate airports applying for a new designation. On the SF 424, Application for Federal Assistance, prescribed by the Office of Management and Budget Circular A–102, airports must indicate their application is for re-designation to the MAP. In addition to the above information, they must explain:

(1) Why a re-designation and additional MAP eligible project funding is needed to accomplish the conversion to meet the civil role of the airport and the preferred time period for re-designation;

(2) Why funding of eligible work under other categories of AIP or other sources of funding would not accomplish the development needs of the airport;

(3) Why, based on the previously funded MAP projects, the projects and/or funding level were insufficient to accomplish the airport conversion needs and development goals; and

(4) The term of the re-designation, not to exceed five years, for which the airport is applying.

This notice is issued pursuant to Title 49 U.S.C. 47118.

Issued at Washington, DC, on January 4, 2002.

Benito DeLeon,

Deputy Director, Office of Airport Planning and Programming.

[FR Doc. 02–651 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02–02–U–00–HGR) To Use a Passenger Facility Charge (PFC) at Hagerstown Regional Airport—Richard A. Henson Field, Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a passenger facility charge (PFC) at Hagerstown Regional Airport—Richard A. Henson Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 11, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Arthur Winder, Project Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Carolyn S. Motz, Airport Manager, Board of County Commissioners of Washington County, Maryland at the following address: Hagerstown Regional Airport—Richard A. Henson Field, 18434 Showalter Road, Hagerstown, Maryland 21742–1347.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Board of County Commissioners of Washington County, Maryland under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Project Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016, (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Hagerstown Regional Airport—Richard A. Henson Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 28, 1999, the FAA determined that the application to impose and use a PFC submitted by the Board of County Commissioners of Washington County, Maryland was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1999.

The following is a brief overview of the application.

PFC Application No.: 02–02–U–00–HGR.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2002.

Proposed charge expiration date: July 8, 2003.

Total estimated PFC revenue: $206,000.

Brief description of proposed project(s):

—Construct Snow and Equipment Maintenance Building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled/On-Demand Air Carrier filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports Office located at: Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, NY 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Hagerstown Regional Airport—Richard A. Henson Field.

Issued in Dulles, VA 22016, January 3, 2002.

Terry J. Page,

Manager, Washington Airports District Office.

[FR Doc. 02–654 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9688]

Agency Information Collection Activities Under OMB Review: OMB Control No. 2126–0001 (Driver's Record of Duty Status)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FMCSA announces that the Information Collection Request (ICR) described in this notice is being sent to the Office of Management and Budget (OMB) for review and approval. The FMCSA is requesting approval of the information that is required for the Record of Duty Status (RODS) of drivers of commercial motor vehicles (CMVs). This information collection is necessary to ensure that motor carriers and CMV drivers comply with the limitations on maximum driving and duty time prescribed in the Federal Motor Carrier Safety Regulations (FMCSRs). The ICR describes the information collection and its expected burden. FMCSA is sending the ICR to OMB in accordance with the terms of the Paperwork Reduction Act of 1995. The FMCSA published the required **Federal Register** notice offering a 60-day comment period on this information collection on May 21, 2001 (66 FR 28017). Two comments were received during this comment period and are addressed below.

DATES: Please submit comments by February 11, 2002.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, *Attention:* DOT Desk Officer. We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including: whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. OMB wants to receive comments within 30 days of publication of this notice in order to act on the ICR quickly.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr. (202) 366–2718, Driver and Carrier Operations (MC–PSD), Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Driver's Record of Duty Status

OMB Approval Number: 2126–0001

Background: The record of duty status (RODS) is the primary tool used by the FMCSA to determine the compliance of motor carriers and CMV drivers with the maximum driving and duty time limitations prescribed in the FMCSRs. States that receive Motor Carrier Safety Assistance Program (MCSAP) grants from the FMCSA employ these tools to determine the regulatory compliance of CMV drivers during safety inspections. The information contained in the RODS determines whether a driver can drive a CMV on any given day, based upon the duty hours and driving time recorded by the driver over the previous 7 to 8 days. The RODS is an important tool to help ensure the safety of the general public by reducing the number of tired drivers on the nation's highways.

On May 21, 2001, the FMCSA gave notice that the agency intended to seek OMB approval of the renewal of this information collection (66 FR 28017). The Notice solicited public comment; two comments were received. Both comments indicated that both drivers and carriers, in complying with the paperwork associated with the RODS, consume more time than FMCSA had estimated. The American Trucking Association (ATA) reported the results of a survey of its members. Member drivers estimated that it takes 10 to 15 minutes per day to properly complete a log sheet. Member motor carriers estimated that it takes 9 minutes per day to ''review, check for accuracy, and file'' each record of duty status. The Owner-Operators Independent Drivers Association (OOIDA) also provided estimates from its members. Member drivers estimated that it takes ''approximately 15 minutes'' per day to properly complete a log sheet. Member motor carriers estimated that it takes 9 to 10 minutes daily, per RODS, to receive, process and store the information.

In light of the comments received FMCSA has reconsidered the assumptions we applied in developing our previous estimates. In addition, the agency conducted a small number of ''time trials'' to examine the process of completing a RODS more closely. The agency separated the standard RODS into three parts: the basic information at the top of the log, the large area for tracking the actual duty status through the day, and the summary portion. The agency determined that the industry average for each part of the RODS were as follows:

Date, name and address of the motor carrier, vehicle number and total miles—1 minute.

30 to 45 seconds per change of duty status (each individual grid entry) with 6 to 8 changes of duty status per day for most drivers—4 minutes and 30 seconds.

Addition of the total hours for each status line, and for the 24-hour period—1 minute.

FMCSA has previously estimated that 2 minutes daily are required for a driver to complete a RODS. We now estimate that 6.5 minutes daily are required to complete minimally compliant RODS. The agency does not doubt that for some drivers in some segments of the trucking industry the daily times are as great as the comments suggest. However, we feel that 6.5 minutes provides a more reasonable industry-wide average of the amount of time a driver requires to complete a RODS.

FMCSA has previously estimated that a motor carrier requires 30 seconds daily per driver to file a RODS. In light of the comments received from these two organizations, we have reconsidered the assumptions we applied in developing our estimate. We now estimate that 3 minutes daily per driver are required for a motor carrier to file each RODS. We are also guided by the fact that the regulations do not require the motor carrier to review each and every RODS of its drivers; it is sufficient if the carrier develops some form of systemic review of these records, such as periodic random spot checks, to assure that they are being completed properly.

On May 2, 2000, FMCSA proposed a comprehensive revision of the HOS Rules (65 FR 25539). The agency is continuing its review of more than 50,000 comments to these proposed rules. The agency also held eight public hearings and three roundtables, and is reviewing the transcripts of these proceedings. The review is continuing.

Earlier, on April 20, 1998, FMCSA published an NPRM (63 FR 19457) in response to a statutory mandate to amend the HOS regulations by defining and describing the supporting

documents necessary to substantiate the RODS. FMCSA incorporated this NPRM, and the comments received to it, into the proposed HOS Rules.

FMCSA is proposing changes to the HOS rules because the transportation system of the United States has changed significantly over the 65 years since the current rules were promulgated. Research today indicates that under the current HOS rules, drivers do not have sufficient opportunities to get restorative sleep. There is strong evidence that new rules could substantially reduce the fatalities and injuries that occur each year because of drowsy, tired, or fatigued CMV drivers. Legislation prohibited the Department from issuing a final rule in FY 2001, but allowed all other stages of the rulemaking to proceed. The new FMCSA Administrator, recently confirmed by the Congress, will review and direct the future of this effort.

Respondents: The respondents are CMV drivers and motor carriers. The burden is imposed on both. Drivers must complete an RODS, under the Hours-of–Service rules or compatible State regulations, and submit it to the motor carrier. Motor carriers must collect and store the RODS, and review it for accuracy.

Number of Drivers

FMCSA estimates that 6,436,430 CMV drivers are required to complete RODS, whether paper or timecard. FMCSA assumes no reduction in burden for the use of EOBRs. FMCSA believes that only motor carriers with large numbers of drivers employ this technology because it is not economically feasible for medium and small sized carriers. FMCSA believes that approximately five per cent of motor carriers currently use EOBRs, and that this number is not likely to rise significantly in the absence of a regulation mandating their use. The agency feels that the EOBRs play such a minor role that no adjustments to the estimates are necessary to account for their use; all subject motor carriers and drivers will be assumed to employ either paper or timecard RODS.

The estimate of 6,436,430 drivers includes interstate drivers and intrastate drivers. This estimate is currently being used by FMCSA for estimating other pertinent information collection burdens. Intrastate drivers are included because states electing to accept Federal grants under MCSAP must enact state laws which parallel the FMCSRs. Most states have such parallel laws mandating the completion and maintenance of RODS. The collection burden imposed by those state laws is included in the Federal burden for purposes of this calculation.

The estimate of 6,436,430 drivers includes both commercial driver's license (CDL) and non-CDL drivers subject to FMCSA regulations. Data and sampling weights from the 1999 Controlled Substances and Alcohol Testing Survey were used to generate an estimate of the number of CDL drivers. An estimate of non-CDL drivers was obtained by calculating the ratio of CDL to non-CDL drivers in FMCSA's Motor Carrier Management Information System (MCMIS). FMCSA also employed figures derived from the Truck Inventory and Use Survey compiled by the Bureau of the Census, U.S. Department of Commerce. FMCSA is making other efforts to determine the number of CMV drivers, and these efforts will help the agency to define this population.

CMV drivers engage in four categories of operation, as follows:

Type of operation	Number of drivers
Long-haul	424,804
Regional	823,863
Local delivery	3,997,023
Local, services	1,190,740
Total	6,436,430

FMCSA does not report the burden hours associated with the collection of time card information because DOL reports this burden under OMB No. 1215–0017, titled, ''Records To Be Kept By Employers—FLSA.'' FMCSA believes that all ''Local, Services'' CMV drivers are eligible for, and employ, time cards. In addition, FMCSA believes that twenty-five per cent (25%) of the ''Local, delivery'' CMV drivers are eligible to use time cards. Thus the number of CMV drivers who are pertinent to these calculations is 4,246,434, as follows:

Type of operation	Number of drivers
Long-haul	424,804
Regional	823,863
Local delivery: 3,997,023 × .75 =	2,997,767
Local, services	0
Total	4,246,434

Number of Burden Hours: CMV Driver

The amount of time required to fill out a RODS varies with the number of stops and with changes in a driver's status (*e.g.*from ''on-duty driving'' to ''on-duty not driving''). FMCSA estimates that CMV drivers take an average of six minutes and thirty seconds daily to complete the RODS. FMCSA believes that CMV drivers subject to these regulations work 240 workdays per year. Six and a half minutes for each of 240 days creates a total time burden of 26 hours per year for the average CMV driver. Thus the total burden hours for CMV drivers is 110,407,284, as follows:

Number of drivers	Hours per year	Total burden hours
4,246,434	26	110,407,284

Number of Burden Hours: Motor Carrier

Motor carriers are required to retain RODS for a period of six months (49 CFR 395.8(k)). The motor carrier must also systematically review the RODS of its drivers to ensure that they are complete and accurate (49 CFR 395.8(e)). FMCSA estimates a motor carrier spends an average of three minutes per driver per day complying with these requirements. Three minutes for each of 240 days creates a total time burden for motor carriers of 12 hours per year for each CMV driver. Thus the total burden hours for motor carriers is 50,957,208, as follows:

Number of drivers	Hours per year	Total burden hours
4,246,434	12	50,957,208

Total Burden Hours

The estimated annual burden of this information collection, for both the CMV driver and the motor carrier, is 161,364,492 burden hours, as follows:

Total burden hours: driver	Total burden hours: carrier	Total burden hours
110,407,284	50,957,208	161,364,492

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: December 20, 2001.

Joseph M. Clapp,

Administrator.

[FR Doc. 02–664 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–11055]

Motor Carrier Safety Research and Technology: Second Annual Workshop

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public meeting; workshop participation; request for comments.

SUMMARY: This notice invites participation in a workshop addressing issues related to safety and security in Motor Carrier Safety Research and Technology Development Program and requests comment from those unable to attend the workshop. The workshop is being sponsored by FMCSA's Office of Research and Technology. It will be held at the close of the Transportation Research Board's Annual Meeting on January 17, 2002, in Washington, DC. The workshop will promote discussion of the accomplishments of the Office of Research and Technology since the Transportation Research Board's annual meeting of 2001; facilitate the sharing of information regarding specific research and technology projects completed during the 2001 calendar year; and provide a forum for interested parties to discuss their views regarding the planned or proposed projects in the area of research and technology.

DATES: The meeting and workshop will be held on Thursday, January 17, 2002, from 8:30 a.m. to 5:00 p.m. If you would like your comments to be available by the date of the meeting, submit the comments to the DOT Docket Clerk as described below by January 13, 2002. If you are unable to attend the meeting, comments should be submitted to the DOT Docket Clerk before January 31, 2002.

ADDRESSES: The meeting and workshop will be held at the Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008. Mail comments to Docket Clerk, U.S. DOT Dockets Management Facility, Room PL–401, 400 7th Street, SW., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Alvarez, Office of Research and Technology, (202) 358–5684, Federal Motor Carrier Safety Administration, 400 Virginia Avenue, SW., Suite 600, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access or Filing

Internet users can submit or review comments online through the Document Management System (DMS) website at: *http://dmses.dotgov.* Detailed information on the workshop and Program areas is available at *www.volpe.dot.gov/outreach/fmcsatrb.* Participants can pre-register for the workshop at the Transportation Research Board website: *www.trb.org/trb/meeting.*

The Federal Motor Carrier Research and Technology Development Program supports FMCSA safety activities and initiatives through the discovery, application, and dissemination of new knowledge (research); and the assessment, development, deployment, and promotion of new devices and systems (technology).

The Workshop Agenda will include:

1. Plenary Session
2. Accomplishment reports on the five program areas
3. Box Lunch
4. Breakout Sessions in the five program areas regarding planned or proposed future projects
5. Wrap-up and Evaluations

Meeting and workshop attendance is open to the public, but is limited in space. For the morning Workshop Plenary Session there is no limit on space. Seating for the afternoon Breakout Sessions will be on a first-come basis. The registration for an entire day includes a lunch fee.

For information on facilities or services for individuals with disabilities, or to request special assistance or meals at the meetings, contact Delores Hilton, Transportation Research Board (202) 334–2960.

Comments from those who attend the meeting and workshop will be transcribed. A copy of the transcript will be placed in the public docket. Feedback from all parties will be used as the basis for a final Workshop Report. The report will also be available to the public at the Volpe website which has information on the workshop.

If you wish to submit written comments or statements concerning the meeting and this notice, submit the information to the public docket listed at the top of this notice.

Issued on: January 7, 2002.

Joseph M. Clapp,

Administrator.

[FR Doc. 02–658 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2002–11283]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Rita Jackson, Maritime Administration, MAR–250, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–0284 or FAX 202–493–2288.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Request for Waiver of Service Obligation; Request for Deferment of Service Obligation; Application for Review of Waiver/Deferment Decisions.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0510.

Form Numbers: MA–935; MA–936; MA–937.

Expiration Date of Approval: June 30, 2002.

Summary of Collection of Information: In accordance with U.S.C. 12959, MARAD requires approved maritime training institutions seeking excess or surplus property to provide a statement of need/justification prior to acquiring the property.

Need and Use of the Information: This information collection is used by the requestor to provide a justification of the intended use of the surplus property, and is needed by MARAD to determine compliance with applicable statutory requirements.

Description of Respondents: Maritime training institutions.

Annual Responses: 61.

Annual Burden: 20½ hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the

Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: January 7, 2002.

Joel C. Richard,

Secretary.

[FR Doc. 02–648 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–11282]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FELLOWSHIP.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before February 11, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–11282. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: FELLOWSHIP. *Owner:* Nels Erik & Tina Marie Jensen.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''75′ in length. Tonnage per document is 113 gross and 90 net.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:

''Naturalist guided, day only, eco-excursion for groups of 12 passengers to San Juan Islands National Wildlife Reserve, San Juan Islands, Washington State.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* Unknown. Place of construction: Unknown.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''I do not feel we would impact any existing commercial sightseeing, whale watching, or tourist operator whatsoever. These are larger commercial ventures that appeal to an entirely different clientelle.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''* * * I used Seattle and Northwest shipyards to restore this vessel and I plan to continue to use the same for yearly haulouts and repairs.* * * I can only see a benefit and therefore a positive impact on our local shipyards and respective local economy* * *''

Dated: January 7, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–649 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–10312; Notice 2]

Michelin North America, Inc.; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Michelin North America, Inc., (Michelin), determined that approximately 173,800 205/55R16 Michelin Energy MXV4+ tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.'' FMVSS No. 109 requires that each tire shall have permanently molded into or onto both sidewalls the generic name of each cord material used in the plies of the tire (S4.3 (d)).

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Notice of receipt of the application was published, with a 30-day comment period, on August 9, 2001, in the **Federal Register** (66 FR 41931). NHTSA received no comments on this application. During the period of the 4th week of 2000 through the 9th week of 2001, the subject tires were produced and cured with the erroneous marking. Instead of the required marking of:

Tread Plies − 2 Polyester + 2 Steel + 1 Polyamide, Sidewall Plies − 2 polyester, the tires were marked: Tread Plies − 2 Rayon + 2 Steel + 1 Polyamide, Sidewall Plies − 2 Rayon. Of the total, approximately 162,500 tires may have been delivered to customers. The remaining tires have been identified in Michelin's warehouse.

Michelin stated that these tires meet or exceed all FMVSS No. 109 performance requirements and, therefore, this noncompliance is inconsequential as it relates to motor vehicle safety.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act of November 2000 required, among other things, that the agency initiate rulemaking to improve tire label information. In response to Section 11 of the TREAD Act, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The agency received more than 20 comments addressing the ANPRM, which sought comments on the tire labeling information required by 49 CFR 571.109 and 571.119, part 567, part 574, and part 575. Most of the comments were from motor vehicle and tire manufacturers, although several private citizens and consumer interest organizations responded to the ANPRM. With regard to the tire construction (number of plies and type of ply cord material in the tread and sidewall) labeling requirements of FMVSS 109, paragraphs S4.3 (d) and (e), most comments indicated that the information was of little or no safety value to consumers. However, the tire construction information is valuable to the tire re-treading, repair, and recycling industries, according to several trade groups representing tire manufacturing. The International Tire and Rubber Association, Inc., (ITRA) indicated that the tire construction information is used by tire technicians to determine the steel content of a tire so that proper retread, repair, and recycling procedures can be selected.

In addition to the written comments solicited by the ANPRM, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perception and understanding of tire labeling. Few of the focus group participants had knowledge of tire label information beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we believe that it is likely that few consumers are influenced by the tire construction information (i.e., the number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire. However, the tire repair, retread, and recycling industries use the tire construction information.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered. Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgment, specifying rayon instead of polyester for tire construction will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. The agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries, according to ITRA. In this case, the fact that steel is used in the tread construction of the tires appears on the sidewalls. In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Michelin's application is granted and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: January 4, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–656 Filed 1–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34142]

Bethlehem Steel Corporation—Corporate Family Transaction Exemption

Bethlehem Steel Corporation (BSC), a noncarrier holding company, has filed a verified notice of exemption. As part of an overall corporate restructuring, BSC is forming six new limited liability company subsidiaries (LLCs) to merge with and succeed to the rights of six of BSC's existing subsidiary Class III rail carriers. BSC will continue to control the LLCs.[1]

The transaction was to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed.) The corporate restructuring will provide tax benefits to BSC, eliminate the filing of certain tax returns, and provide other administrative benefits.

BSC's control of the LLCs and the conversion of the six existing BSC rail carriers to LLCs through mergers are transactions within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). BSC states that the transaction will not result in adverse changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

[1] The six BSC subsidiary railroads are as follows: Brandywine Valley Railroad Company, operating in the States of Pennsylvania and Delaware; Upper Merion and Plymouth Railroad Company, operating in the State of Pennsylvania; Conemaugh & Black Lick Railroad Company, operating in the State of Pennsylvania; Keystone Railroad, Inc., operating in the State of Pennsylvania; Steelton & Highspire Railroad Company, operating in the State of Pennsylvania; and Patapsco & Back Rivers Railroad Company, operating in the State of Maryland. The instant corporate family transaction is related to six concurrently filed verified notices of exemption: STB Finance Docket No. 34154, *Brandywine Valley Railroad Company LLC—Acquisition and Operation Exemption-Brandywine Valley Railroad Company*; STB Finance Docket No. 34155, *Upper Merion and Plymouth Railroad Company LLC—Acquisition and Operation Exemption-Upper Merion and Plymouth Railroad Company*; STB Finance Docket No. 34156, *Conemaugh & Black Lick Railroad Company LLC—Acquisition and Operation Exemption-Conemaugh & Black Lick Railroad Company*; STB Finance Docket No. 34157, *Keystone Railroad LLC—Acquisition and Operation Exemption-Keystone Railroad, Inc.*; STB Finance Docket No. 34158, *Steelton & Highspire Railroad Company LLC—Acquisition and Operation Exemption-Steelton & Highspire Railroad Company*; and STB Finance Docket No. 34159, *Patapsco & Back Rivers Railroad Company LLC—Acquisition and Operation Exemption-Patapsco & Back Rivers Railroad Company.*

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34142, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–537 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34154]

Brandywine Valley Railroad Company LLC—Acquisition and Operation Exemption—Brandywine Valley Railroad Company

Brandywine Valley Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Brandywine Valley Railroad Company (Brandywine) [1] and operate the following rail lines: (1) Between milepost 12.7, at the Delaware/Pennsylvania state line and milepost 30.29, at Modena, PA, a distance of 17.59 miles; [2] (2) Between milepost 18.0, at Wawa, PA, and milepost 54.50, at the Pennsylvania/Maryland state line near Sylmar, MD, a distance of 36.50 miles; [3] and (3) between milepost 12.7, at the Delaware/Pennsylvania border and milepost 2.9, at Elsmere Jct., DE, a distance of 9.8 miles.[4]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption*, STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which Brandywine is to be merged into Applicant. The separate existence of Brandywine will cease and Applicant will be the surviving entity and continue the operations formerly provided by Brandywine.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34154, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–540 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Both Applicant and Brandywine are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] *See Brandywine Valley Railroad Company-Acquisition Exemption-Pennsylvania Department of Transportation*, STB Finance Docket No. 34141 (STB served Jan. 8, 2002).

[3] *See Brandywine Valley Railroad Company-Modified Rail Certificate*, STB Finance Docket No. 33722 (STB served Apr. 16, 1999).

[4] *See Certificate of Designated Operator, Brandywine Valley Railroad Company*, STB D-OP No. 100 (STB served June 10, 1999).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34156]

Conemaugh & Black Lick Railroad Company LLC—Acquisition and Operation Exemption—Conemaugh & Black Lick Railroad Company

Conemaugh & Black Lick Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Conemaugh & Black Lick Railroad Company (CBL) [1] and operate a 32-mile rail line in Cambria County, PA.[2]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which CBL is to be merged into Applicant. The separate existence of CBL will cease and Applicant will be the surviving entity and continue the operations formerly provided by CBL.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34156, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

[1] Both Applicant and CBL are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–532 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34157]

Keystone Railroad LLC—Acquisition and Operation Exemption—Keystone Railroad, Inc

Keystone Railroad LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 132-mile rail line in Northampton County, PA,[1] owned by its corporate affiliate Keystone Railroad, Inc. (Keystone).[2]

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which Keystone is to be merged into Applicant. The separate existence of Keystone will cease and Applicant will be the surviving entity and continue the operations formerly provided by Keystone.[3]

The transaction was expected to be consummated as of January 1, 2002. Applicant states that its revenues are expected to exceed $5,000,000 per year. Under 49 CFR 1150.32(e), ''If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.'' When Applicant filed its verified notice of exemption in STB Finance Docket No. 34157, it simultaneously filed a request for a waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of Keystone, by decision served on December 27, 2001, the Board granted Applicant's request and waived the requirements of 49 CFR 1150.32(e). That decision had the effect of making the exemption in this proceeding effective on December 27, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34157, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–533 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34140]

Lake Michigan & Indiana Railroad Company LLC—Acquisition and Operation Exemption—Keystone Railroad, Inc.

Lake Michigan & Indiana Railroad Company LLC (LMIC), a noncarrier at the time of the transaction described in this notice, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 66-mile rail line in Burns Harbor, Porter County, IN,[1] previously leased by its corporate affiliate Keystone Railroad, Inc. (Keystone).[2]

LMIC states that it took over the lease from Keystone and commenced operations on the rail line in October 2001, pursuant to an exemption it received in *Bethlehem Steel Corporation, Keystone Railroad, Inc., and Lake Michigan & Indiana Railroad Company LLC—Corporate Family Transaction Exemption*, STB Finance Docket No. 34101 (STB served Oct. 25, 2001). LMIC notes that it filed its notice of exemption in STB Finance Docket No. 34140 after the Board's staff informed LMIC that, as a newly formed noncarrier, an exemption from the requirements of 49 U.S.C. 10901 was needed as well.

LMIC states that its revenues are expected to exceed $5,000,000 per year. Under 49 CFR 1150.32(e), ''If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.'' When LMIC filed its verified notice of exemption in STB Finance Docket No. 34140, it simultaneously requested a waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of Keystone, by decision served on December 27, 2001, the Board granted LMIC's request and waived the requirements of 49 CFR 1150.32(e). That decision had the effect of making the exemption in this proceeding effective on December 27, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34140 must be filed with the

[1] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

[2] Both Applicant and Keystone are wholly owned subsidiaries of Bethlehem Steel Corporation.

[3] The verified notice of exemption indicates that Keystone currently conducts operations under its historic trade name of Philadelphia Bethlehem and New England Railroad and that Applicant will continue to use the same trade name.

[1] LMIC states that the rail line is composed of former yard and switching tracks and does not have assigned mileposts.

[2] Both Keystone and LMIC are wholly owned subsidiaries of Bethlehem Steel Corporation.

Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–538 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34137]

Chicago SouthShore & South Bend Railroad—Trackage Rights Exemption—National Railroad Passenger Corporation (AMTRAK)

National Railroad Passenger Corporation (AMTRAK), has agreed to grant local trackage rights to Chicago SouthShore & South Bend Railroad (CSS&SB). The trackage rights extend over approximately 2.7 miles of track from the turnout at approximately milepost 226.1 to the industrial lead at approximately milepost 228.8, all in or near Michigan City, IN.[1]

The transaction was scheduled to be consummated on or after December 28, 2001, the effective date of the exemption.

The purpose of the trackage rights is to enhance competition and to enable CSS&SB to provide service to two current customers on the line and other customers who locate on the line in the future.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34137, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Troy W. Garris, Weiner Brodsky Sidman Kider PC, Fifth Floor, 1300 19th Street, NW., Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: January 4, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–659 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34159]

Patapsco & Back Rivers Railroad LLC—Acquisition and Operation Exemption—Patapsco & Back Rivers Railroad Company

Patapsco & Back Rivers Railroad LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 183-mile rail line in Baltimore County, MD,[1] owned by its corporate affiliate Patapsco & Back River Railroad Company (Patapsco).[2]

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which Patapsco is to be merged into Applicant. The separate existence of Patapsco will cease and Applicant will be the surviving entity and continue the operations formerly provided by Patapsco.

The transaction was expected to be consummated as of January 1, 2002. Applicant states that its revenues are expected to exceed $5,000,000 per year. Under 49 CFR 1150.32(e), ''If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.'' When Applicant filed its verified notice of exemption in STB Finance Docket No. 34159, it simultaneously filed a request for a waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of Patapsco, by decision served on December 27, 2001, the Board granted Applicant's request and waived the requirements of 49 CFR 1150.32(e). That decision had the effect of making the exemption in this proceeding effective on December 27, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34159, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, PO Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–536 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] A redacted version of the Trackage Rights Agreement between AMTRAK, and CSS&SB (agreement) was filed with the verified notice of exemption. An unredacted version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with the motion for a protective order. This motion was granted in a separate decision served in this proceeding on January 7, 2002.

[1] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

[2] Both Applicant and Patapsco are wholly owned subsidiaries of Bethlehem Steel Corporation.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34158]

Steelton & Highspire Railroad Company LLC—Acquisition and Operation Exemption—Steelton & Highspire Railroad Company

Steelton & Highspire Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Steelton & Highspire Company (SH) [1] and operate a 47-mile rail line in Dauphin County, PA.[2]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption*, STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which SH is to be merged into Applicant. The separate existence of SH will cease and Applicant will be the surviving entity and continue the operations formerly provided by SH.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34158, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

[1] Both Applicant and SH are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–535 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34155]

Upper Merion and Plymouth Railroad Company LLC—Acquisition and Operation Exemption—Upper Merion and Plymouth Railroad Company

Upper Merion and Plymouth Railroad Company LLC (Applicant), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from its corporate affiliate Upper Merion and Plymouth Railroad Company (UMP) [1] and operate an 11-mile rail line in Montgomery County, PA.[2]

The transaction was expected to be consummated as of January 1, 2002. The earliest the transaction could have been consummated was December 26, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

This transaction is related to *Bethlehem Steel Corporation—Corporate Family Transaction Exemption,* STB Finance Docket No. 34142 (STB served Jan. 10, 2002), through which UMP is to be merged into Applicant. The separate existence of UMP will cease and Applicant will be the surviving entity and continue the operations formerly provided by UMP.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34155, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hockey, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–541 Filed 1–9–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Both Applicant and UMP are wholly owned subsidiaries of Bethlehem Steel Corporation.

[2] Applicant states that the rail line is composed of yard and switching tracks and does not have assigned mileposts.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 2, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 11, 2002, to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0008.

Regulation Parts: 31 CFR 103.33.

Type of Review: Extension.

Title: Conditional Exception to the Application of 31 CFR 103.33(g).

Description: FinCEN Notice 1998–1 provides two conditional exceptions to the information requirements of 31 CFR 103.33(g) (the ''Travel Rule''). Banks and brokers and dealers in securities would use the exceptions.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Reporting—3 minutes
Recordkeeping—15 minutes

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,500 hours.

Clearance Officer: Lois K. Holland, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220, (202) 622–1563.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office

Building, Washington, DC 20503, (202) 395–7860.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 02–566 Filed 1–9–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, January 25, 2002, starting at 8:45 a.m., 740 15th Street, Suite 700, Washington, DC. The duration of the meeting will be approximately four hours.

FOR FURTHER INFORMATION CONTACT: Gordana S. Earp, Deputy Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0336.

At this meeting, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda:

(1) Report on the work of the COAC sub-committee on Border Security and COAC recommendations.

(2) Status of proposed re-design of the Office of Rules & Regulations.

(3) Merchandise Processing Fee.

(4) Review of issues and priorities for 2002.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: January 4, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 02–602 Filed 1–9–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities; Proposed Revision of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, Board, FDIC, and OTS (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed revisions to a continuing information collection, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies are soliciting comments on proposed revisions to the information collection titled: ''Interagency Bank Merger Act Application.'' Additionally, the OCC is making other clarifying changes to the Comptroller's Corporate Manual.

DATES: You should submit written comments by March 11, 2002.

ADDRESSES: Interested parties are invited to submit comments to any or all of the Agencies. All comments, which should refer to the OMB control number, will be shared among the Agencies:

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1–5, Attention: 1557–0014 (BMA), Washington, DC 20219. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043. In addition, you may fax your comments to (202) 874–4448 or e-mail them to *regs.comments@occ.treas.gov.*

Board: Written comments may be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by electronic mail to *regs.comments@federalreserve.gov,* or faxing them to the Office of the Secretary at 202–452–3819 or 202–452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in room M–P–500 between 9 a.m. and 5 p.m., on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), Office of Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to ''Interagency Bank Merger Act Application.'' Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention: 1550–0016, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You may request additional information from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. For subject matter information, you may contact Cheryl Martin at (202) 874–4614, Licensing, Policy, and Systems, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380; Frances C. Augello, Senior Counsel, Business Transactions Division, (202) 906–6151; Patricia D. Goings, Regulatory Analyst, Examination Policy, (202) 906–5668; or Damon C. Zaylor, Regulatory Analyst, Examination Policy, (202) 906–6787, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Proposal to extend for three years, with revision, the following currently approved collection of information:

Report Title: Interagency Bank Merger Act Application.

OCC's Title: Comptroller's Corporate Manual (Manual). The specific portions of the Manual covered by this notice are those that pertain to the Business Combinations booklet of the Manual and various portions to which the OCC is making technical and clarifying changes.

OMB Numbers:

OCC: 1557–0014.

Board: 7100–0171.

FDIC: 3064–0015.

OTS: 1550–0016.

Form Numbers:

OCC: None.

Board: FR 2070.

FDIC: 6220/01 and 6220/07.

OTS: 1639.

Affected Public: Individuals or households; Businesses or other for-profit.

Type of Review: Review of a currently approved collection.

Estimated Number of Respondents:

OCC: Nonaffiliate—120; Affiliate—260.

Board: Nonaffiliate—57; Affiliate—79.

FDIC: Nonaffiliate—200; Affiliate—150.

OTS: Nonaffiliate—16; Affiliate—0.

Frequency of Response: On occasion.

Estimated Annual Burden Hours per Response:

OCC: Nonaffiliate—30; Affiliate—18.

Board: Nonaffiliate—30; Affiliate—18.

FDIC: Nonaffiliate—30; Affiliate—18.

OTS: Nonaffiliate—30; Affiliate—18.

Estimated Total Annual Burden Hours:

OCC: Nonaffiliate—3,600; Affiliate—4,680. Total: 8,280 burden hours.

Board: Nonaffiliate—1,710; Affiliate—1,422. Total: 3,132 burden hours.

FDIC: Nonaffiliate—6,000; Affiliate—2,700. Total: 8,700 burden hours.

OTS: Nonaffiliate—480; Affiliate—0. Total: 480 burden hours.

General Description of Report: This information collection is mandatory. 12 U.S.C. 1828(c) (OCC, FDIC, and OTS), and 12 U.S.C. 321, 1828(c), and 4804 (Board). Except for select sensitive items, this information collection is not given confidential treatment. Small businesses, that is, small institutions, are affected.

Abstract: This submission covers a revision to the Agencies' merger application form for both affiliated and nonaffiliated institutions. The form's title is the Interagency Bank Merger Act Application. The Agencies need the information to ensure that the proposed transactions are permissible under law and regulation and are consistent with safe and sound banking practices. The Agencies are required, under the Bank Merger Act, to consider financial and managerial resources, future prospects, convenience and needs of the community, community reinvestment, and competition.

Some agencies collect limited supplemental information in certain cases. For example, the OCC and OTS collect information regarding CRA commitments, the Federal Reserve collects information on debt servicing from certain institutions, and the FDIC requires additional information on the competitive impact of proposed mergers.

Current Actions: Section 307(c) of the Gramm-Leach-Bliley Act (GLBA) requires the appropriate Agency to consult with the appropriate state insurance regulator prior to making any determination relating to the initial affiliation of, or the continuing affiliation of, a depository institution with a company engaged in insurance activities. As a result, the Agencies propose to add an item to the form to collect information on the name of the affiliated insurance company; a description of its insurance activities; each state and the lines of business in each state in which the company holds, or will hold, an insurance license; and the state where the company holds a resident license or charter, as applicable. Additionally, the General Instructions contain technical corrections to make them uniform with the proposed revisions to the ''Interagency Charter and Federal Deposit Insurance Application'' form.

Further, the OCC is making a change to its Business Combinations booklet of the Manual by adding the interagency application form and providing updated information about filing for a merger. These changes are not material and are technical in nature. These changes are an administrative adjustment, and do not change, in any way, the requirements on national banks.

Comments: Comments submitted in response to this notice will be summarized in each Agency's request for OMB approval, and analyzed to determine the extent to which the collection should be modified. All comments will become a matter of public record.

Written comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 1, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, January 3, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 1st day of November, 2001.

Robert E. Feldman,

Executive Secretary.

Dated: October 4, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.

[FR Doc. 02–643 Filed 1–9–02; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

Federal Register

Thursday,

January 10, 2002

Part II

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 303

Early Intervention Program for Infants and Toddlers With Disabilities and Reauthorization of the Individuals With Disabilities Education Act; Proposed Rule and Notice

DEPARTMENT OF EDUCATION

34 CFR Part 303

RIN 1820–AB53

Early Intervention Program for Infants and Toddlers with Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Secretary withdraws the Notice of Proposed Rulemaking (NPRM) for the Early Intervention Program for Infants and Toddlers with Disabilities under Part C of the Individuals with Disabilities Education Act (IDEA) that was published on September 5, 2000. This action is taken because of the pending reauthorization of Part C of IDEA. All relevant comments received under the NPRM will be considered in developing the Administration's legislative proposal on IDEA, along with new comments submitted as part of the reauthorization process.

DATES: The NPRM published on September 5, 2000 at 65 FR 53808 is withdrawn as of January 10, 2002.

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Thomas Irvin (202) 205–5507. If you use a telecommunication device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain the document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Format Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION: On September 5, 2000, the Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register** (65 FR 53808) to amend the regulations governing the Early Intervention Program for Infants and Toddlers with Disabilities (34 CFR part 303). In the NPRM, we requested comments and recommendations on a number of provisions, including those related to the provision of early intervention services in ''natural environments,'' State financing of early intervention services, and proposed new provisions to address the use of public and private insurance by States.

The number and quality of comments received on the NPRM demonstrated an intense interest in these and other provisions in the Part C regulations. However, because Part C of IDEA expires on September 30, 2002 and must be reauthorized, we believe that any changes to the existing regulations before the statute is reauthorized—especially given the relatively brief period that these regulations would remain in effect—would be counterproductive.

We believe that it would be more efficient and effective to delay the issuance of any new regulations for the Part C program until after the IDEA is reauthorized. This will add stability to the implementation of Part C, and ensure the development of more comprehensive and complete regulations for the early intervention program that should remain in effect, without change, for an extended period of time.

For the reasons we have described in the preceding paragraphs, the Secretary withdraws the NPRM for the Early Intervention Program for Infants and Toddlers with Disabilities that was published on September 5, 2000.

In developing the Administration's proposal regarding the reauthorization of IDEA, we will consider all relevant comments received in response to the NPRM published on September 5, 2000, together with new comments submitted as part of the reauthorization process.

The Secretary is publishing in this issue of the **Federal Register** a Notice of request for public comment on the Individuals with Disabilities Education Act and its implementation. We encourage you to submit additional comments regarding the Early Intervention Program under Part C and to address any of the questions raised in the accompanying Notice.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Number: 84.181 Early Intervention Program for Infants and Toddlers with Disabilities)

List of Subjects in 34 CFR Part 303

Education of individuals with disabilities, Grant programs—education, Infants and toddlers, Reporting and recordkeeping requirements.

Dated: December 28, 2001.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–622 Filed 1–9–02; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Thursday,

January 10, 2002

Part II

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 303

Early Intervention Program for Infants and Toddlers With Disabilities and Reauthorization of the Individuals With Disabilities Education Act; Proposed Rule and Notice

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Education of individuals with disabilities, Grant programs—education, Infants and toddlers, Reporting and recordkeeping requirements.

Dated: December 28, 2001.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–622 Filed 1–9–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Reauthorization of the Individuals With Disabilities Education Act

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of request for public comment on the Individuals with Disabilities Education Act and its implementation.

SUMMARY: The Secretary of Education invites written comments from the public on the Individuals with Disabilities Education Act (IDEA) to assist the Department in preparing for reauthorization of the Act in 2002.

DATES: In order to ensure that your comments are considered by the Department in preparing its legislative proposal on IDEA, we encourage you to submit the comments before February 25, 2002.

ADDRESSES: All comments concerning the reauthorization of IDEA should be addressed to Thomas Irvin, Office of Special Education and Rehabilitative Services, U.S. Department of Education, and submitted by one of the following methods:

1. *Internet.* We encourage you to send your comments through the Internet at the following address: *Comments@ed.gov.*

You must use the term IDEA Reauthorization in the subject line of your electronic message.

2. *Surface Mail.* Alternatively, you may submit your comments via surface mail to: Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Mary E. Switzer Building, Room 3086, Washington DC 20202–2570.

To ensure that we do not receive duplicate copies of comments, please submit your comments only one time—using one of the two methods described in the preceding paragraphs (Internet or surface mail).

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Thomas Irvin (202) 205–5507. If you use a telecommunication device for the deaf (TTD) you may call the TDD number at (202) 205–5465.

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SUPPLEMENTARY INFORMATION:

Background and Description of the Act

On June 4, 1997, the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 were enacted into law as Pub. L. 105–17. These Amendments reauthorized and made significant changes to IDEA to accomplish the following: (1) Ensure better results for children with disabilities, while retaining (and expanding upon) the rights and protections under prior law; (2) revise the discretionary programs to strengthen the capacity of States to effectively serve children with disabilities, including infants and toddlers with disabilities; and (3) make other improvements to IDEA, including simplifying the structure and organization of the Act.

As authorized by the 1997 Amendments, IDEA is divided into four major parts:

Part A (General Provisions) includes the findings and purposes of the Act; definitions; authority for the Office of Special Education Programs; abrogation of State sovereign immunity; authority for the acquisition of equipment and construction of facilities; provisions regarding the employment of individuals with disabilities; and requirements for prescribing regulations.

Part B (Assistance for Education of All Children with Disabilities) authorizes a State formula grant program for the education of children with disabilities aged 3 through 21. The Act includes provisions regarding—(1) conditions for State and local eligibility (e.g., ensuring a free appropriate public education for all eligible children); (2) evaluations, child eligibility, and individualized education programs (IEPs); and (3) procedural safeguards (e.g., mediation, due process procedures, and pendency or stay-put requirements, including discipline procedures). In addition, Part B includes other provisions, including data collection requirements.

Part B also authorizes a Preschool Grants program that provides additional funds to help States provide special education and related services to children with disabilities aged three through five.

Part C authorizes the early intervention program for infants and toddlers with disabilities, which provides Federal assistance to help States maintain and implement a statewide system of early intervention services for young children with disabilities, aged birth through two, and their families. The Act sets out eligibility conditions for State participation in the program, including—(1) a policy that ensures appropriate early intervention services for all eligible children, including, at State discretion, children who are at risk of experiencing substantial developmental delays; and (2) other requirements (e.g., provisions regarding individualized family service plans (IFSPs), natural environments, procedural safeguards, and financing of early intervention services).

Part D authorizes a series of discretionary programs to support National activities to improve the education of children with disabilities, including State Improvement Grants, coordinated research and personnel preparation, parent training and information centers, technical assistance and dissemination, technology development, demonstration, and utilization, and media services.

Need for Reauthorization

Two major parts of IDEA will expire on September 30, 2002: Part C (Infants and Toddlers with Disabilities); and Part D (National Activities to Improve Education of Children with Disabilities). Thus, we are seeking broad public input regarding changes needed to improve implementation of the early intervention program for infants and toddlers with disabilities under Part C, and the effectiveness of the National Activities under Part D.

We also will consider all relevant comments received on the Notice of Proposed Rulemaking (NPRM) for the Part C program that was published on September 5, 2000 (65 FR 53808). (The Secretary is publishing a Notice withdrawing the Part C NPRM in this issue of the **Federal Register**.)

Although Part B of IDEA is permanent legislation with no requirement for reauthorization, the reauthorization

process for Parts C and D provides an opportunity to carefully examine Part B as well.

The President has laid out four principles of education reform to ensure that no child is left behind. These principles are: accountability for results, local control and flexibility, empowering parents to participate more meaningfully in their children's education, and employing research-based practices that we know work to improve student performance. Using this underlying framework, the Secretary solicits public comment regarding the reauthorization of IDEA.

We are particularly interested in identifying opportunities for increasing flexibility and reducing unnecessary paperwork and burden while maintaining the important rights and protections of children with disabilities and their families.

Invitation To Comment

We encourage your comments on the broad areas identified in the preceding paragraphs (under Need for Reauthorization). Because we believe that reforms to IDEA should be based, to the greatest degree possible, on evidence that demonstrates the need for reform and that can guide those reforms, we are also particularly interested in receiving factual information and research in these broad areas. We also seek comment on the following specific areas:

(1) *Accountability.* How, and to what degree, are children with disabilities being included in State and local accountability systems? What barriers exist to inclusion of these children in the accountability systems? What recommendations do you have to eliminate these barriers?

(2) *Personnel Issues.* In what areas of special education and related services (or early intervention services) are States and school districts (or lead agencies) experiencing problems in finding and retaining qualified personnel? Are funds that are available at the Federal, State, and local levels being used effectively to address personnel shortages? For teachers, administrators, and others responding to these questions, what recommendations do you have to alleviate personnel shortages?

Are the pre-service and in-service training programs offered by State and local educational agencies based on research-derived methods that are proven to improve results for children? Do regular and special education teachers believe their college preparation programs prepared them to teach students with disabilities? Do local administrators believe the regular and special education teachers they are hiring are qualified to teach students with disabilities?

(3) *Parent Involvement.* For parents of children with disabilities, what barriers to meaningful participation in your child's education have you experienced? For school districts, what barriers have you faced in ensuring meaningful parent involvement? For parents and professionals involved in the early intervention program under Part C, what barriers have you experienced? In each of these cases, have you experienced any efforts to increase parent involvement that you believe are successful? If so, please describe them.

(4) *Transition to Post-School Endeavors.* To what extent are school aged students with disabilities routinely participating in their IEP meetings? What barriers exist to full implementation of the IDEA's current transition requirements? What recommendations do you have to eliminate these barriers?

(5) *Excessive Paperwork.* For administrators, teachers, or other personnel, describe any burdens you are experiencing in implementing the Part B (or Part C) requirements. What specific requirements are problematic, and what kinds of problems are you having? What recommendations do you have to resolve these problems? What paperwork requirements do little to further educational goals of children with disabilities and/or provide appropriate protections to the children and their families? What paperwork is completed by clerical staff, administrators, special education teachers, and regular education teachers? What paperwork now completed by teachers and administrators could be completed by clerical staff, if they were available? What steps have you taken in order to try to reduce IDEA paperwork burden?

(6) *Local School Districts—20 Percent Funds.* Under section 613(a)(2)(C), a school district may treat as local funds up to 20 percent of the amount it receives under Part B that exceeds the amount it received during the prior fiscal year. To what extent are school districts using this authority? How are school districts using the local funds that become available?

(7) *Use of Insurance under Part C.* To what extent are private and public insurance used in paying for early intervention services under Part C in your State? Have parents suffered any financial or other difficulties resulting from the use of their insurance? What difficulties do lead agencies have in accessing public or private insurance?

In submitting your comments, please identify the area of your involvement in special education, regular education or early intervention, as well as your role, if any, in that area (e.g., parent, teacher, student, service provider, administrator, or researcher). In addition, if appropriate to your comments, please identify the specific Part and section of IDEA that is the subject of your comments, and specify why the statute needs to be amended.

Program Authority: 20 U.S.C. 1400 *et seq.*

Dated: December 28, 2001.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–623 Filed 1–9–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Reauthorization of the Individuals With Disabilities Education Act

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of request for public comment on the Individuals with Disabilities Education Act and its implementation.

SUMMARY: The Secretary of Education invites written comments from the public on the Individuals with Disabilities Education Act (IDEA) to assist the Department in preparing for reauthorization of the Act in 2002.

DATES: In order to ensure that your comments are considered by the Department in preparing its legislative proposal on IDEA, we encourage you to submit the comments before February 25, 2002.

ADDRESSES: All comments concerning the reauthorization of IDEA should be addressed to Thomas Irvin, Office of Special Education and Rehabilitative Services, U.S. Department of Education, and submitted by one of the following methods:

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Program Authority: 20 U.S.C. 1400 *et seq.*

Dated: December 28, 2001.

Loretta L. Petty,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–623 Filed 1–9–02; 8:45 am]

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Federal Register

Vol. 67, No. 7

Thursday, January 10, 2002

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Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–523–5227**

Laws — **523–5227**

Presidential Documents

Executive orders and proclamations — **523–5227**

The United States Government Manual — **523–5227**

Other Services

Electronic and on-line services (voice) — **523–3447**

Privacy Act Compilation — **523–3187**

Public Laws Update Service (numbers, dates, etc.) — **523–6641**

TTY for the deaf-and-hard-of-hearing — **523–5229**

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–264 2
265–478 3
479–638 4
639–790 7
791–1066 8
1067–1274 9
1275–1412 10

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7516 479

Executive Orders:
12543 (See Notice of January 3, 2002) 637
12544 (See Notice of January 3, 2002) 637
13182 (Superseded by EO 13249) 639
13249 639

Administrative Orders:

Notices:
January 3, 2002 637

7 CFR

301 1067
354 1070
764 791
905 801
987 1275
1464 481
1721 484
1945 791

Proposed Rules:
Ch. I 525
330 697
800 25
Ch. IX 525
Ch. X 525
Ch. XI 525
925 1315
959 1317
979 1319
1240 849
1464 526

9 CFR

93 649
94 ..... 649, 1072
381 1277
441 1277

10 CFR

Proposed Rules:
35 274

12 CFR

614 1281
619 1281

14 CFR

25 487
39 ..... 1, 123, 265, 489, 491, 492, 494, 495, 497, 499, 500, 502, 503, 505, 507, 509, 651, 653, 809, 812, 815, 1286
71 ..... 510, 511, 512, 513, 514, 515, 516, 517, 816
97 ..... 267, 269, 1288, 1289
107 655
108 655
330 250

Proposed Rules:
39 ..... 29, 31, 33, 35, 38, 40, 530, 534, 537, 538, 541, 542, 544, 547, 550, 697, 700, 1165, 1167, 1169
71 ..... 552, 702, 703, 704, 705, 706, 1322
93 123
330 263

15 CFR

743 458
752 458
772 458
774 458

16 CFR

4 123

17 CFR

228 232
229 232
230 228
240 232
241 6
249 232

18 CFR

Proposed Rules:
101 1026
201 1026
284 44
352 1026

19 CFR

12 953

21 CFR

173 271

22 CFR

126 1074

25 CFR

513 1274

25 CFR

170 1290

26 CFR

1 ..... 8, 817, 1075
602 ..... 8, 817, 1075

Proposed Rules:
1 48
46 707

29 CFR

102 ..... 656, 657
1912 658
1912a 658

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 10, 2002

COMMERCE DEPARTMENT
Economic Analysis Bureau
International services surveys:
BE-20; benchmark survey of selected services transactions with unaffiliated foreign persons; published 12-11-01
BE-48; annual survey of reinsurance and other insurance transactions by U.S. insurance companies with foreign persons; published 12-11-01

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Connecticut; published 12-11-01

INTERIOR DEPARTMENT
Indian Affairs Bureau
Transportation Equity Act for 21st Century; implementation:
Indian Reservation Roads funds; 2002 FY funds distribution; published 1-10-02

PERSONNEL MANAGEMENT OFFICE
Employment:
Agency vacancy announcements; reasonable accommodation statement requirement; published 12-11-01

TRANSPORTATION DEPARTMENT
Federal Railroad Administration
U.S. rail operations; U.S. locational requirement for dispatching; published 12-11-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
California Prune/Plum (Tree Removal) Diversion Program; implementation; comments due by 1-16-02; published 12-17-01 [FR 01-31038]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries—
Northeast Multispecies Fishing Capacity Reduction Program; comments due by 1-18-02; published 12-19-01 [FR 01-31262]

COMMODITY FUTURES TRADING COMMISSION
Security futures products:
Large trader reports; reporting levels; comments due by 1-14-02; published 12-13-01 [FR 01-30812]

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Retired and Senior Volunteer Program; amendments; comments due by 1-14-02; published 11-13-01 [FR 01-28254]

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Indefinite-delivery contracts; progress payment requests; comments due by 1-14-02; published 11-14-01 [FR 01-28230]

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Phosphoric acid manufacturing and phosphate fertilizers production plants; comments due by 1-16-02; published 12-17-01 [FR 01-31009]

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Phosphoric acid manufacturing and phosphate fertilizers production plants; comments due by 1-16-02; published 12-17-01 [FR 01-31010]
Air pollution control; new motor vehicles and engines:
Nonroad large spark ignition engines and recreational engines (marine and land-based); emissions control; comments due by 1-18-02; published 12-18-01 [FR 01-31178]
Air programs:
Ambient air quality standards, national—
Ozone; response to remand; comments due by 1-14-02; published 11-14-01 [FR 01-27820]

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Kansas; comments due by 1-18-02; published 12-19-01 [FR 01-31238]

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Kansas; comments due by 1-18-02; published 12-19-01 [FR 01-31239]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Wisconsin; comments due by 1-14-02; published 12-14-01 [FR 01-30814]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Wisconsin; comments due by 1-14-02; published 12-14-01 [FR 01-30815]
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 1-14-02; published 12-13-01 [FR 01-30740]
Water pollution; discharge of pollutants (NPDES):
Concentrated animal feeding operations; permit regulation and effluent limitations guidelines and standards; data availability; comments due by 1-15-02; published 11-21-01 [FR 01-28738]

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
California; comments due by 1-14-02; published 12-10-01 [FR 01-30387]
Television stations; table of assignments:
Utah and Nevada; comments due by 1-14-02; published 12-18-01 [FR 01-31187]

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Indefinite-delivery contracts; progress payment requests; comments due by 1-14-02; published 11-14-01 [FR 01-28230]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Federal Housing Enterprise Oversight Office
Risk-based capital:
Counterparty haircuts, multifamily loans, and refunding; technical amendments and corrections; comments due by 1-17-02; published 12-18-01 [FR 01-30898]

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
La Graciosa thistle, etc.; comments due by 1-14-02; published 11-15-01 [FR 01-28041]
Santa Cruz tarplant; comments due by 1-14-02; published 11-15-01 [FR 01-28040]
Pygmy rabbit; Columbia Basin distinct population segment; comments due by 1-14-02; published 11-30-01 [FR 01-29612]

INTERIOR DEPARTMENT
National Park Service
World Heritage Convention; comments due by 1-18-02; published 11-19-01 [FR 01-28256]

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Immigration:
Aliens—
Continued detention of aliens subject to removal orders; comments due by 1-14-02; published 11-14-01 [FR 01-28369]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Scientific and technical reports; comments due by 1-14-02; published 11-14-01 [FR 01-28242]

Federal Acquisition Regulation (FAR):

Indefinite-delivery contracts; progress payment requests; comments due by 1-14-02; published 11-14-01 [FR 01-28230]

INTERIOR DEPARTMENT

National Indian Gaming Commission

Federal claims collection; comments due by 1-14-02; published 1-9-02 [FR 02-00676]

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

National Mining Association; comments due by 1-16-02; published 11-2-01 [FR 01-27536]

Three Mile Island Alert; comments due by 1-16-02; published 11-2-01 [FR 01-27576]

SECURITIES AND EXCHANGE COMMISSION

Investment companies:

Actively managed exchange-traded funds; comments due by 1-14-02; published 11-15-01 [FR 01-28572]

Affliliated companies; mergers; comments due by 1-18-02; published 11-15-01 [FR 01-28583]

SOCIAL SECURITY ADMINISTRATION

Social security benefits:

Federal old age, survivors, and disability insurance—

Digestive system impairments; medical criteria evaluation; comments due by 1-14-02; published 11-14-01 [FR 01-28455]

SOCIAL SECURITY ADMINISTRATION

Social security benefits:

Federal old age, survivors, and disability insurance—

Musculoskeletal system and related criteria; medical criteria for disability determination; comments due by 1-18-02; published 11-19-01 [FR 01-28456]

TRANSPORTATION DEPARTMENT

Procedural regulations:

Air Transportation Safety and System Stabilization Act; air carriers compensation procedures

Set-aside of compensation funds for air ambulances, air tour operators, etc.; comments due by 1-16-02; published 1-2-02 [FR 01-32177]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules, etc.:

Criminal history records checks; comments due by 1-17-02; published 1-7-02 [FR 02-00358]

Airworthiness directives:

Boeing; comments due by 1-14-02; published 11-13-01 [FR 01-28334]

CFE Co.; comments due by 1-18-02; published 12-4-01 [FR 01-29947]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness standards:

Special conditions—

Canadair Model CL-600-2A12 airplanes; comments due by 1-14-02; published 12-13-01 [FR 01-30638]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Class E airspace; comments due by 1-16-02; published 12-17-01 [FR 01-31000]

TREASURY DEPARTMENT

Customs Service

Merchandise entry:

Single entry for split shipments; comments due by 1-15-02; published 11-16-01 [FR 01-28551]

VETERANS EMPLOYMENT AND TRAINING SERVICE

Annual report from Federal contractors; comments due by 1-18-02; published 12-19-01 [FR 01-31188]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 1789/P.L. 107–109

Best Pharmaceuticals for Children Act (Jan. 4, 2002; 115 Stat. 1408)

Last List January 4, 2002

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